

Ek  
1947.  
**K**

File No. B. Rents 147

Legal DEPARTMENT  
B BRANCH

Subject:—

A Bill to amend and  
Consolidate the Law relating  
to the control of rents of  
certain premises in the  
Province of Bombay

L. A. Bill No. LIII of 1947

Bom. Act No. LVII of 1947

P-147  
H-E-2

File No. B. Rents 147

.. Sectt. Slip 24 B a

606-B

Office of the R.L.M.

A revised draft Bill is sent herewith.

2. Clause 3 in G.D. draft <sup>has</sup> been transposed as clause 2. The areas to which the Act applies have been relegated to Schedule I.
3. ~~Clause 3~~. The proviso to sub-clause (2) has been deleted. As soon as the Act ceases to be in force in any area, legislation cannot provide that the Act shall still continue in <sup>force</sup> for certain purposes. If Government desire that a further extension of two years is not sufficient for the operation of the Act, the period of two years may be increased. After the Act ceases to be in force, the common law steps in, and all matters should be left to be adjusted in accordance with that law.
4. Clause 4 corresponds to G.D. clause 5. The best way to give protection to educational and social institutions is to take power in the definition of "premises" for the purposes. The necessary provision has been made in clause 4(3)(c)(i), (ii) and (iii).

In the definition of "Standard rent", provision has been made to include standard rent fixed under the existing two Acts of 1939 and 1944. This appears necessary.

5. Clause 9 has been recast with a view to bringing out the intention clearly. It is presumed that the proposed increase of 10% is not to be <sup>allowed</sup> in the case of premises let after the date of the coming into operation of the new Act.
6. Clause 10 has also been recast with a view to precision. It is presumed that the proviso correctly represents the intention of Government. It is not clear whether the idea is to allow any increase of rent for the broken period whenever the adjustment from the Indian calendar to the British calendar is made or to allow a recurring increase for all time after the adjustment is made according to the British calendar. G.D. might examine the position further.
7. ~~Clause 11 is~~. Provision has been made in clause (g) of the proviso that the section shall not apply if the premises are required for the occupation of any person for whose benefit they are held; vide concluding portion of the proviso to section 9(1) of the 1944 Act, and of the proviso to section 11(1) of the 1939 Act.

The proviso to clause (h) of the proviso in the G.D. draft clause 12 has been deleted as necessary provision has been made in revised clause 15.

8. ~~Clause 11.~~ The provision made in this clause that a sub-tenant shall be deemed to be the tenant of the landlord on the same terms as he would have held from the tenant, if he had not ceased to be the tenant might result in some injustice to the landlord.

A tenant, to spite a landlord might sublet his premises or part thereof to a sub-tenant on terms more favourable to the tenant than those on which he holds them from the landlord.

In that case the sub-tenant becomes the tenant of the landlord on those more onerous terms, while if the tenement had not been sublet, the tenant would continue as the tenant on terms more favourable to the landlord. It is not clear whether this is the intention of Government. A tenant gets the right of subletting and in addition by this provision he gets the right of spiting the landlord and subletting them on terms less favourable to the landlord.

9. ~~Clause 15.~~ Sub-clause clause (1) has been amplified in conformity with the wording of proviso (a) to section 11.

10. Clause 16 has been re-arranged and recast with a view to logical sequence.

O.D. clause 17(3) says: "payments made <sup>under</sup> any agreement entered into before 1st September 1940" presumably in accordance with section 3(3) of the 1944 Act. It may be noticed, however, that section 10(3) of the 1939 Act says: "all payments made under any agreement entered into before 1st January 1939." It is not clear whether it is the intention of Government to stop any payments made under any agreement between 1st January 1939 and 1st September 1940.

11. Clause 18(1), which is based on section 15(2) of the English Act (10 and 11 Geo. 5, Ch. 17) provides that a tenant may as a condition of giving possession ask for or receive a payment of any sum or any other consideration from the landlord. It is presumed it is the intention of Government to permit a landlord to persuade a tenant to leave by offering him some consideration.

12. ~~Clause 18(2).~~ Under clause 17(1) a tenant is permitted to take any consideration etc. as a condition of giving possession

from landlord. Sub-clause (2) of this clause has, therefore, been brought in line with that provision.

13. Clause 20.— Sub-clause (2) of G.D. clause 2k, and the provision in sub-clause (5) of the said G.D. clause that Government may by order in writing direct a landlord to let the premises in question to a person specified in the order amounts virtually to requisition of immoveable property. It is true that the person put in possession will become the tenant of the landlord and will pay the standard rent and abide by the other terms of the tenancy. However, to force any person as a tenant on a landlord against his will is nothing but requisitioning of the premises for the purpose of putting such person in possession as a tenant. This would not be covered either by entry 21, "relation of landlord and tenant etc." entry 8, "transfer of property, other than agricultural land," in List III, of "contracts" in entry 10 in List III, since there is no entry in any of the three Lists giving power to legislate with reference to requisition of immoveable property, such a provision would be ultra vires, and has therefore been deleted. If it is desired to enforce the provision contained in sub-clause (1) of revised clause 20 regarding giving an intimation of vacancies and of intention to let or sublet, it is feasible to make it an offence and penalise it if so desired. Such a provision will be covered by entry 37 in List II.

14. Clause 22 has been recast and re-arranged with a view to precision.

15. Clause 25.— Since the District Judge is to be empowered to transfer any appeal to an Assistant Judge or even a Subordinate Judge etc., it is but proper that the Chief Judge of the Small clause Court, Bombay, also should have the power to transfer any appeal to any other Judge of his court. It is very likely that the number of appeals in the City of Bombay may become so numerous as to be delayed if they are to be disposed of only by the Chief Judge.

16. Clause 27 of G.D. draft referring to any area ceasing to be notified area is not now necessary. Such a provision was inserted by Bom.V. of 1941, because, then it was intended to convert some of the notified areas specified in the Act into municipal districts or villages. It is presumed that all the areas now mentioned in the Bill have been correctly mentioned as such.

17. Clause 4 in G.D. draft <sup>has</sup> been transposed as clause 27.

18. Clause 28 regarding repeal. It is not necessary to provide that appointments made, orders passed or rules prescribed under either of the Acts repealed shall be deemed to be made etc. under the new Act. Any such appointment should be made afresh under the new Act. Any orders passed under the repealed Acts will have their full effect, and will not be affected by the repeal of the Acts: vide section 7(b) of the Bombay General Clauses Act, 1904. It is not known whether any rules have been made under the repealed Acts. However, if there are any, they need not be continued under the new Act, and fresh rules may be made under the new Act for the purpose.

19. The Statement of Objects and Reasons at pages 63-65, as slightly amended, is in order.

20. The subject matter of the Bill is covered by entries 2, 21, 37 and 38 in List II and entries 4, 8, 10 and 15 in List III in the 7th Schedule to the Government of India Act, 1935.

21. The Bill does not affect any special responsibility of the Governor under the Government of India Act, 1935. The Bill, however, in as much as it affects the right of the landlord to increase the rent, requires the sanction of the Governor under section 299(3) of the Government of India Act, 1935. As the Controllers will have to be appointed it is safer to hold that the Bill also requires the Governor's recommendations under section 82(3) of the Act.

22. As the Bill contains provisions repugnant to section 108 of the Transfer of Property Act, 1882, and section 54 of the Presidency Small Cause Courts Act, 1882, which are existing India Laws falling under the concurrent Legislative List the Bill will have to be reserved for the consideration of the Governor General with reference to section 107(2) of the Constitution Act.

Sd/-  
Remembrancer of Legal Affairs.

U.P. to G.D. No. dated the January 1947.

H.R.D.  
25.5.46

X H.M. (L.)

X No. 70 8.3.2.4)

Legal Department.

Since H.M.(Law) will pilot the Rent Control Bill, 1947 (L.A .Bill No.XVIII of 1947), the papers relating to the same have been submitted to H.M. (Law).

The General Department is now requested to arrange to give notice to the Secretary to the Bombay Legislative Assembly in the appended form.

The Bill requires the previous sanction of the Governor under section 299 (3) of the Government of India Act, 1935. It will also require the Governor's recommendation under section 82(3) of the said Act. The G.D. is therefore requested to obtain the Governor's sanction and recommendation to the Bill in the appended form.

The G.D. is also requested to obtain orders of Government regarding the application of the proposed Act to the partially excluded areas.

Sd/-

Personal Assistant to the Remembrancer  
of Legal Affairs.

M.R.D. -  
25-5-56  
C.4

U.R. to G.D., No. 1646, dated the 17th February 1947.

Office of the R.L.A.

As the Rent Control Bill has already been published as L.A. Bill No. XVIII of 1947, it is not possible to make any changes therein unless amendments are moved to the Bill in the Assembly. General Department is therefore requested to take the necessary steps in the matter at an early date, unless the Bill goes to Select Committee.

Sd/-  
Remembrancer of Legal Affairs.

U.O.R. to G.D. No. 1955

Dated the 26th February 1947.

M.R.D.-  
25-5-56  
C.4

Office of the R.L.A.Statement of the Case.

Clause 21 of the draft Rent Control Bill sent by the General Department Provides as follows:-

21. (1) Every owner, occupier or person in possession of residential premises intending to let or sub-let such premises, whether furnished or unfurnished and whether with or without board, shall forthwith give intimation of such intention to the Controller in the form given in the Schedule.

(2) No owner, occupier or person in possession of such residential premises shall let or sub-let them without the permission of the Controller before the expiration of three weeks from the date of such intimation.

(3) Nothing in this section shall apply to residential premises which are less than a self-contained house or flat.

(4) It shall be open to the Controller to recommend in writing within the period specified in sub-section(2) to the person giving intimation under sub-section(1) the letting of the premises to such person as may be specified in such recommendation.

(5) The Controller shall forthwith report to the Provincial Government all cases in which a recommendation made by him under sub-section(4) is not accepted by the person to whom it is made and Government may, after giving such person a reasonable opportunity of showing cause, by order in writing direct such person to let the premises in question to a person specified in the Order."

2. Sub-clause(2) of General Department clause 21, and the provision in sub-clause(5) of the said General Department clause that Government may by order in writing direct a landlord to let the premises in question to a person specified in the order amounts virtually to requisition of immoveable property. It is true that the person put in possession will become the tenant of the landlord and will pay the standard rent and abide by the other terms of the tenancy. However, to force any person as a tenant on a landlord against his will is nothing but requisitioning of the premises for the purpose of putting such person in possession as a tenant. This would not be covered either by entry 21 "relation of landlord and tenant etc." in List

IX or entry 8, "transfer of property, other than agricultural land, or "contracts" in entry 10 in List III of the 7th Schedule to the Government of India Act, 1935. Since there is no entry in any of the three Lists giving power to legislate with reference to requisition of immovable property, such a provision would be *ultra vires*, and has therefore been deleted from the revised draft Bill.

The Advocate General is however kindly requested to advise whether the view taken above is correct.

24/3

Minister of Legal Affairs.

U.R. to Advocate General, Bombay No. 1623, dated the 17th February 1947.

H.R.D.  
26-3-56  
C.A

U.R. to the Advocate General, Bombay,-  
No. 1622 dated 17th February 1927.

OPINION:

I agree with the R.L.A. Clause 21 of the draft Rent Control Bill ought to be omitted. It does not fall within item 21 in List 2. That item gives authority to regulate relations between landlord and tenant on the assumption that such a relationship exists. It does not operate to enable a contract of tenancy to be compulsorily forced upon a landlord. As pointed out by the R.L.A., This is tantamount to requisition for which the Province has no authority. I am also inclined to think that the provision will offend against Sec. 299 of the constitution Act.

Sd/-  
Advocate General.

M.R.D.-  
25-5-66  
C.R

Office of the R.L.A.

Paragraph 4 of the proposed provision suggested by the General Department at page 5 ante which provides for penalty for failure of the landlord to let the premises either to the person specified in the recommendation or to some other person within a week of the receipt of the recommendation virtually amounts to forcing any person as a tenant on the landlord against his will and would still affect the spirit of the Constitution Act. (See in this connection the opinion of the Advocate General No. 15 dated the 14th<sup>M</sup> March 1947, copy of which along with the statement of the case is sent herewith). The proposed provision is not therefore legally feasible.

Sd/-

Representative of Legal Affairs.

M. (L.S.G.).

M.R.D.-  
25-5-56  
C.4

✓ No. 159 of 26.3.47

Under sub-clause(1) of clause 2 of L.A. Bill No. XVIII of 1947 (A Bill to amend and consolidate the law relating to the control of rents of certain premises in the Province of Bombay) the Bombay Rent Control Act, 1947, extends to the areas specified in Schedule I thereto. The definition of "premises" in respect of those areas will be as given in clause 4(3) of the Bill. Under clause 2(2) power is given to the Provincial Government by notification in the official Gazette to extend all or any of the provisions of the said Act to any other area, that is areas other than those specified in schedule I, with such modifications in respect of the definition of standard rent as may be specified in the notification. The expression "all or any of the provisions of the said Act" cannot ordinarily be construed as authorising the extension only of the truncated definition of that term "premises" on the ground that such definition is also a provision of the Act; that is further made clear by the express authorisation permitting the modification of the definition of "standard rent". That modification is allowed for obvious reasons. Accordingly the definition of "premises" in clause 4(3) will apply in its plenitude not only in respect of areas specified in Schedule I but in respect of areas other than those so specified. The view of the Deputy Secretary (Education) that it will not be possible to apply the Bombay Rent Control Act, 1947, only to a particular class of premises in the areas specified in Schedule I or the other areas to which the Act may be extended under clause 2(2) appears to be correct.

2. It does not seem to be the intention of the proposed enactment that its provisions should be made applicable exclusively to buildings used only for one particular purpose. The enactment is intended to apply to areas where there is shortage of accommodation and not to a particular type of buildings, even in areas where there is no such shortage. If so desired, the Health & Local Government Department may, therefore, obtain the orders of Government in the first instance whether Government desires that the application of the Act under clause 2(2) to other areas should be restricted to particular kinds of buildings only and then suggest for the consideration of this office the amendments in L.A. Bill No. XVIII of 1947 which will meet with its requirements.

Remembrance of Legal Affairs.

U.R. to Health & Local Govt. Deptt., No. 4516, dated the 3rd May 1947.

M.R.D.  
26-5-56  
G.4

Office of the R.L.A.

Necessary provision to cover other premises e.g. educational and social institutions has been made in clause 4(3) of the Rent Control Bill.

Sd/-

Remembrancer of Legal Affairs.

U.R. to H. &amp; L.G. Deptt., No. 6654 dated the 27th June 1947.

M.R.D.-  
26-5-56  
C.4

Office of the R.L.A.

As regards the first amendment for extending the scope of the Rent Control Bill to non-residential premises, it may be pointed out that power has already been taken in the existing clause 4(3) (a) as proposed to be further modified in the linked file for extending the scope of the Act to non-residential premises.

2. The second proposal involves an amendment of Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944. H.M.(L) desires that the Bill in this behalf should be taken up in the next session of the Bombay Legislature. The H.A. and L.G. Department is therefore requested to take the necessary steps and send the Bill to the R.L.A. for the scrutiny as early as possible.

Sd/-

Remembrancer of Legal Affairs.

U.R. to H. and L.G. Department, No. 6948, dated the 7th July 1947.

M.R.D. -  
26-5-56  
C.4

L.D. requested to vet the amendments set out in the Statement below, which are for inclusion in the Rent Control Bill. It is also requested that if a provision requiring a landlord to declare vacancies within a stipulated period and requiring him to fill the vacancy within a definite period is not ultra vires, it should be made in the Bill.

2. Amendment of clause 4(3)(a). The proposed amendment may be recast as follows, namely:-

For the words "education or any other object notified in this behalf in the Official Gazette by the Provincial Government" substitute:-

"or education or let separately for any other object notified in this behalf in the Official Gazette by the Provincial Government either generally or in such particular area and having such standard rent as may be specified in the notification;".

In order to remove the anomaly referred to at 'A' on P.1 of the Statement, clause 4(5) of the Bill may be recast as follows, namely:-

"(5) "Standard rent" in relation to any premises means—

(i) in the case of premises let for residence or education —

(a)

(b)

(c)

(d)

(e)

As in the existing clause 4(5).

and

(ii) In the case of premises let for any other object notified under sub-clause(a) of clause(3), such rent as may be specified in the notification in the Official Gazette by the Provincial Government;".

3. Amendment of clause 4(6)(a). Inclusion of "subtenants" in the term "tenants" may create legal difficulties in respect of their ejection under clause 11. They were therefore deliberately excluded from the definition of the term "tenants." Such inclusion moreover would alter the scheme of the Bill as a whole. The proposed amendment does not therefore appear to be feasible.

4. Amendment of clause 5. The proposed proviso to clause 5 at P. 5 of the Statement as slightly amended is in order.

~~Amendment of clause 6.~~ The present phraseology of clause 6 was deliberately adopted as being more appropriate. If at all the word "substantially" may be omitted.

6. ~~Amendment of clause 8.~~ The argument is not understood. It is true that standard rent is fixed under clause 4(5). But then the Act prohibits recovery of anything other than the standard rent. At the same time, the Act allows the landlord to recover certain items in addition to the standard rent (vide clauses 7 and 8.). It is therefore necessary to provide that these extra items allowed under the express provisions of the Act should be deemed to be part of the standard rent. Thus the standard rent is bound to vary from time to time. The proposed deletion is therefore not feasible.

7. ~~Amendment of clause 9.~~ The following clause may be substituted for the existing clause 9. The following clause may be H. and L.G. Department may verify if it is suitable and carries out its intentions.

"9. Notwithstanding anything contained in this Act, a landlord may, after a written notice of two months, recover during a period of twelve months succeeding the date of the expiry of the notice the expenditure incurred by him during a period of twelve months immediately preceding the date of the notice on ordinary repairs to any premises which were let on or before that date of the coming into operation of this Act by an increase in the Standard rent not exceeding 10 per cent; the landlord may after similar notice recover by similar increase during each succeeding period of twelve months such expenditure incurred by him during the period of twelve months such expenditure incurred immediately preceding the date of such notice. Such increase shall be deemed to be included in the standard rent."

Increase in rent on account of repairs.

8. ~~Amendment of clause 13.~~ The provision regarding restoration of premises to the original tenant in the contingencies provided for in the proposed clause was purposely omitted since the inclusion of such a provision would create legal difficulties in respect of the vested rights under this very Act of third parties, if the landlord lets the premises to another tenant instead of occupying it himself or through other member of his family or carrying out repairs thereto etc.

The proposed amendment is not therefore feasible.

9. ~~Amendment of clause 14.~~ As regards the proposed provision for prohibiting payment of deposits for reservation of premises, it is already

covered by the existing clause 14(1) and no further provision is necessary.

As regards the other amendment, if the payment of rent for a period exceeding one month is to be altogether prohibited, this may conflict with tenancies which stipulate for payment of rent by the quarter, six months or the year instead of by the month, which tenancies are not prohibited under the Act. The Administrative Department may therefore consider the position further.

10. Amendment of clause 16(1). The words "or hire" may be omitted in clause 16(1).

11. Amendment of clause 19. The proposed sub-clause (d) only will suffice (Cf. words "or any other reason" in this sub-clause).

The proposed sub-clause (e) is not necessary and may be deleted.

12. New clause. The proposed new clause may be inserted after clause 21 and may be recast as follows, namely:-

Application of Act to areas notwithstanding change in their description.

"21-A. These provisions of this Act shall continue to extend to any area specified in Schedule I or sub-clause (b) of clause (3) of section 4, notwithstanding that the area ceases to be of the description therein specified."

13. The requisite clause to provide for requiring a landlord to declare vacancies within a stipulated period and requiring him to fill the vacancy within a definite period will be furnished to H. and L.G. Department after the full report of the Privy Council in *Megh Raj V. Alla Rakhia* is available.

14. H.M.(L) desires that the Rent Control Bill should be completed and self-contained and should contain also the provisions of part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and that it should be introduced in the next session and should be given second priority after the Village Panchayats Bill. H. and L.G. Department is therefore requested to take immediate steps for obtaining the orders of Government in this respect and send the papers to the R.L.A. for finalising the Bill as soon as possible.

Sd/-  
Secretary to Government,  
Legal Department,

M.R.D.  
26-5-56  
C.4

U.R. to H. and L.G. Department, No. 6978, dated the 8th July 1947.

Office of the R.L.A.

Seen and returned.

2. Paragraph 4 of the draft letter at page 12: It will be noted that section 104(1) of the Government of India Act, 1935, comes into operation only when any proposed legislation is not covered by any matter enumerated in any of the Lists in the Seventh Schedule to that Act. The legislation of other Provinces referred to in this paragraph has not been made, it was noticed from the replies received from those Provinces, in virtue of any conferment of power under section 104(1). But it appears that the said legislation was enacted by those Provinces under entries 9 and 21 in the Provincial Legislative List. It is best, therefore, to omit all references to the cognate legislation of other Provinces and to cut out the reference to this legislation from this paragraph. The necessary amendment has been made in the paragraph.

Sd/-

Remembrancer of Legal Affairs.

M.R.D.-  
28-5-56  
G.4

U.R. to R.D. No. 345-conf1, dated 11th August 1947.

No. 44/47.  
Advocate, General's Chambers,  
High Court,  
Bombay, 21st August 1947.

29-31

U.O.N. to Advocate General of Bombay,  
No. 275 dated 6th of August 1947.

Subject :- Bombay Rent Control Bill, 1947.

Opinion.

The replies received from the various Government show that legislation of a similar kind is justified by them, mainly as falling under item 21 of the second list in Schedule VII, and possibly under item 9. I am of the opinion that the proposed Bombay legislation (viz. clause 21 of the Bill) can be justified by item 21, whether it be called "requisitioning" or by any other name. In this province however, Mr. Justice Bhagwati's judgement is still good law. I have always believed that case not to have been well decided and have regretted that circumstances prevented the appeal to the Federal Court from being heard. The result is that the legislation is liable to be challenged and the point will have to be taken to a higher court for judicial determination.

The Madras reply has referred to a judgement of the Madras High Court in 1944 but that judgement is a very sketchy one. It has been noted by Mr. Justice Bhagwati (47 Bom.L.R. p.1053). The latest Privy Council Judgement which is referred to in the statement of the case, and relied upon in the reply of the Government of India at page 63 of the file, does not, I think, make any difference in the situation (A.I.R. 1947, P.C. 72). That judgement does not more than reaffirm certain principles applying to the interpretation of the items in the Schedule VII which were affirmed in Atiqua Begum's case (1941 A.I.R. P.C. p.16). Various cases to the same effect were cited to Mr. Justice Bhagwati and noted by him. The P.C. judgement holds that mortgages of land "are a well recognised and important form of dealing in land so that it would be impossible to suppose that such transactions could have been kept out of the constitution," (col. 2nd page 74). Their Lordships then conclude that such transactions are incidental and ancillary to item 21.

To my mind this judgement does not affect Bhagwati's judgement directly or indirectly. Indeed it may well be said that the kind of

kind of dealing in land envisaged in clause 21 of the Bombay Bill is not a well recognised or important one so that the P.C. judgement in which the ~~nature~~ <sup>nature</sup> of dealing was emphasised, cannot be said to apply at all.

In the above discussion I have ~~assumed~~ assumed that section 21 really affects a "requisition". There is some ground, however, for arguing that what is affected is an "acquisition" which can be justified by item 9 in list II. A disquisition on the difference between "requisition" and "acquisition" will be found in 47 Bom.L.R. at page 1010. If what is taken over is not merely possession of land but the ownership of land or of an interest in land then the transaction is an acquisition.

It can be said that while the procedure under the Defence of India Act transferred no interest in land, under section 21 of the Bill a tenancy will result. There will be a compulsory letting, and as letting is a transfer of the right to enjoy land, there is a transfer of an interest in land, so that Mr. Justice Bhagwati's judgement is no obstacle. The difficulty, however, is that there is no acquisition of an existing interest, but the compulsory creation of a new one. If it is an "acquisition", where is the compensation and by whom is it payable?

In my opinion the only relevant item is item 21 of list II, and pace Bhagwati's judgement, that item justifies the legislation.

The Ajmer Merwara Act at page 13 of the file, deserves attention. It seeks to create a statutory tenancy directly between the owner and Government (See section 3.) This is more nearly "acquisition" and may even be justified by the items "Contracts or Transfer of property" (items 8 and 10 in list III).

Sd/- C.K. Daphtary  
Advocate General.

M.R.D.-  
26-5-56  
C.4

From

Shamx A. Lal,  
Secretary to the Government of India,  
Ministry of Law, New Delhi.

To

The Secretary to the Government of Bombay,  
Revenue Department, Bombay.

New Delhi, the 4th September 1947.

Subject:- Section 104 of the Government of India  
Act, 1935: conferring of powers on  
Bombay Government to enable it to  
undertake legislation to prevent  
letting of houses by landlords.

Sir,

I am directed to refer to your letter No 10255-A/ 39/1608 dated the 12th  
August, 1947, on the above subject, addressed to the Secretary to the Government  
Governor-General.

2. It appears from paragraphs 2 and 4 of that letter that special legislation  
is required for controlling and regulating the letting and sub-letting of  
residential and other accommodation in the city of Bombay. The substance of  
any such legislation would, it seems, be relatable to the entry "land, that  
is to say, rights in and over land, land tenures including the relation of  
landlord and tenant, and the collection of rents" in item 21 of List II, the  
entry "transfer of property other than agricultural land" in item 8 of List  
III, and the entry "contracts, but not including contracts relating to agricul-  
tural land" in item 10 of List III. The Delhi and Ajmer-Merwara Rent Control  
Act, 1947 (XIX of 1947) was passed by the the Central Legislature on this  
footing. The decision of Bhagwati J. in the case of Tan Bug Tain Vs Collector  
of Bombay, which is to the effect that requisitioning of buildings is not  
a matter covered by any of the entries in the Legislative Lists, does not  
appear to ~~the entries in the Legislative Lists, does not appear to~~ militate  
against the proposed legislation and it is not clear why the decision has been  
referred to in this connection.

3. I am, therefore, to request you to give a clearer idea of the Bill which  
the Bombay Government wish to introduce in the Legislature and of the reasons  
which lead them to think that the Bill, either in whole or in part, would not  
be covered by the Legislative List entries referred to in the preceding  
paragraph.

I have the honour to be,  
Sir,  
Your most obedient servant,

S.A. Lal,

Secretary to the Government of India.

M.R.D. - -

26-5-56

C.A

A copy of the Bill together with the Statement of objects and Reasons which was approved by the Cabinet and published as L.A. Bill No. LIII of 1947, on the 30th September 1947, is sent herewith.

2/ The subject-matter of the Bill falls under entries 2, 8, 21, 28, 37 and 38 in List II and entries 1, 2, 4, 5, 8, 10, 15 and 24 in List III in the Seventh Schedule to the Government of India Act, 1935. As the provisions of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, and the Presidency Small Cause Courts Act, 1882, which are existing Indian Laws relating to entries 8, 4 and 15 in the Concurrent Legislative List, it will be necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

3. The Bill requires the previous sanction of the Governor under section 299(3) and also his previous recommendation under section 82(3) of the Government of India Act, 1935. The requisite forms are appended.

4. The Health and Local Government Department may now arrange to give notice to the Secretary to the Bombay Legislative Assembly in the appended form and submit the papers to H.M.(Law) for his use at the time of introducing the Bill.

Sd/-  
6-10

Remembrancer of Legal Affairs.

U.R. to H. and L.G.D. No. 109-L dated the 7th October 1947.

M.R.D.-  
26-5-56  
C.A.

## GOVERNMENT HOUSE

Poona,                      October 1947.

I accord sanction under section 299(3) of the  
Government of India Act, 1935, to the Bombay Rents, Hotel  
and Lodging House Rates Control Bill, 1947.

M.R.D. -  
26-5-56  
C.4

GOVERNOR OF BOMBAY.

Legal Department,  
Bombay Castle, 5th December 1947.

From

P.M. Lad, Esquire, I.C.S.,

Secretary to the Government of B

To

The Private Secretary to the Governor of Bombay.

Subject:- A Bill to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions.

Sir,

With reference to section 75 of the Government of India Act, 1935, I am directed to forward herewith for being presented to His Excellency the Governor, the authentic copy of the Bill to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions, which was read for the third time and passed at the Meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the ~~22nd~~ 3rd and the 6th November 1947, respectively. The amendments made by the Bombay Legislative Council were agreed to by the Bombay Legislative Assembly on the 7th November 1947.

2. The subject-matter of the Bill falls under entries 2, 8, 21, 28, 37 and 38 in List II and entries 1, 2, 4, 5, 8, 10, 15, and 24 in List III in the Seventh Schedule to the Government of India Act, 1935.

3. As the provisions of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, and the Presidency small Cause Courts Act, 1882, which are existing laws relating to entries 8, 4, and 15 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the Governor General with reference to section 107(2) of the Government of India Act, 1935.

4. I also forward herewith six copies of each of the

- |                                                                                                                                      |               |
|--------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 1. Bill as introduced in the Bombay Legislative Assembly with the Statement of objects and Reasons.                                  | items Nos. 1  |
|                                                                                                                                      | to 14 and two |
| 2. Report of the Select Committee together with the Bill as amended by the select Committee.                                         | copies of     |
|                                                                                                                                      | item Nos. 5   |
| 3. Bill as read for the third time and passed by the Bombay Legislative Assembly and as introduced in the Bombay Legislative Council |               |

4. Bill as read for the third time  
and passed by the Bombay Legis-  
lative Council.

5. Extracts from the proceedings of  
the Bombay Legislative Assembly  
dated the 8th, 9th, 10th and 13th  
October and 3rd and 7th November  
1947 and of the Bombay Legisla-  
tive Council dated the 6th  
November 1947.

I have honour to be,  
Sir,

Your most obedient servant,

SA/-  
4-12

Secretary to Government.

Through -

The Secretary to the Government of Bombay,  
Health and Local Government Department.

M.R.D.  
26-5-56  
C.L.

43

No. P.S.G. 5739  
Office of the Private Secretary to the Governor,  
Government House,  
Bombay, 11th December 1947.

From.

L.E. Bagshawe, Esquire, I.C.S.,  
Private Secretary to the Governor of Bombay.

To

The Secretary to the Bombay Legislature Department,  
Council Hall, Bombay.

Subject: The Bombay Rents, Hotel and Lodging House Rates  
Control Bill 1947.

Sir,

With reference to the above-mentioned Bill which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council on the 3rd and 6th November 1947, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the President, that as the provisions of the Bill are repugnant to the provisions of the Transfer of Property Act, 1882, and the Presidency Small Cause Courts Act, 1882, which are existing laws relating to entries 8, 4 and 15 in the Concurrent Legislative List, it is necessary to reserve the Bombay Rents, Hotel and Lodging House Rates Control Bill, 1947, for the consideration of His Excellency the Governor-General with reference to section 107(2) of the Government of India Act, 1935. His Excellency the Governor is accordingly pleased, under section 75 of the Government of India Act, 1935, to declare that he reserves the Bill for the consideration of His Excellency the Governor-General.

Your obedient servant,

L.E. Bagshawe.

Private Secretary to the Governor of Bombay.

No. P.S.G. 5740  
Office of the Private Secretary to the Governor,  
Government House,  
Bombay, 11th December 1947.

Copy forwarded with compliments for information to -

- (1) The Secretary to Government, Legal Department, with reference to his letter No. 11647, dated the 5th December 1947.
- (2) The Secretary to Government, Health and Local Government Department, with reference to his endorsement No. S.242/M, dated the 5th December 1947.

By order of the Governor of Bombay,

Sd/-

M.R.D.-  
26-5-56  
C.4

No. P.S.G. 272  
Government House,  
Bombay, 29th January 1948.

From  
L.M. Nadkarni, Esquire, I.C.S.  
Private Secretary to the Governor of Bombay

To  
The Secretary to Government,  
Legal Department, Bombay.

Subject: The Bombay Rents, Hotel and Lodging  
House Rates Control Bill, 1947.

Sir,  
In continuation of my letter No. P.S.G. 202, dated the  
16th January 1948, on the above subject, I am directed to  
forward herewith the authentic copy of the ~~the~~ Bombay Rents  
Hotel and Lodging House Rates Control Bill, 1947, with His  
Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Sd/-

Private Secretary to the  
Government of Bombay  
*Lawrence*

M.R.D. -  
26-5-56  
C-4

Bills.

A Bill to amend and consolidate the law relating to the control of the rents of certain premises in the Province of Bombay.

GOVERNMENT OF BOMBAY,  
Legal Department,  
Resolution No. 1469  
Bombay Castle, 12th February 1947.

Memorandum from the General Department, dated the 12th February 1947.- Transferring for necessary action, the papers relating to a Bill to amend and consolidate the law relating to the control of rents of certain premises in the Province of Bombay.

RESOLUTION:- The Bill with the statement of Objects and Reasons should be forwarded to the Manager, Government Central Press, Bombay, for publication in the Bombay Government Gazette dated the 12th February 1947, as Bill No. XVIII of 1947.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette on the 14th February 1947.
3. The dates of the various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay,

Sd/o  
K.M. CHITNIS,  
Assistant Remembrancer of Legal Affairs.

To  
The Manager, Government Central Press, Bombay (with the Bill and the Statement of objects and Reasons and with a request that 230 Gazette copies of the Bill and the S.O. R. may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the Members of the Bombay Legislative Assembly and 25 copies for the use of the Legal Department).  
The General Department,  
\*The Oriental Translator to Government } with a copy of  
The Secretary to the Bombay Legislative } the Bill and  
Assembly, } S.O.R.  
The Director of Publicity, Bombay

\*with five extra copies of the Bill.

M.R.D.  
26-5-56  
C.A

Bills.

A Bill to amend and Consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions.

GOVERNMENT OF BOMBAY,  
Legal Department,  
Resolution No. 9618  
Bombay Castle, 30th September 1947.

RESOLUTION: The Bill with the Statement of objects and reasons should be forwarded to the Manager, Government Central Press Bombay, for publication in the Bombay Government Gazette, dated the 30th September 1947, as Bill No. LIII of 1947.

2. The Bill and the Statement of Objects and Reasons should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette on the 4th October 1947.

3. The dates of the various publications should be reported to the Secretary to the Bombay Legislative Assembly.

By order of the Governor of Bombay,

Sd/-

Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with the Bill and the Statement of Objects and Reasons and with a request that 230 Gazette copies of the Bill and the Statement of Objects and Reasons may be forwarded to the Secretary to the Bombay Legislative Assembly for distribution to the Members of the Bombay Legislative Assembly, 40 Gazette copied and 25 white copies for the use of the Legal Department and 50 copies to the Health and Local Government Department. 2000 copies in English, 500 copies each in Marathi and Gujarati, 300 copies in Kannada and 100 copies in each script of Hindustani should be printed for sale.)

M.R.D.  
25-5-56  
C.4

42/  
Act.

Publication of the Bombay  
Rents, Hotel and Lodging House Rates  
Control Act, 1947.

GOVERNMENT OF BOMBAY.  
Legal Department,  
Resolution No. 670  
Bombay Castle, 19th January 1948.

Letter to the Private Secretary to the  
Governor, No. 11647, dated the 5th December 1947.

Letter from the Private Secretary to the  
Governor, No.P.S.G. 203, dated the 16th January 1948:-

"With reference to the correspondence ending with this office endorsement No. PSG. 5740, dated the 11th December 1947, on the above subject, I am directed to inform you that intimation has been received from the Secretary to the Government of India, Ministry of Home Affairs, that His Excellency the Governor-General has assented to the Bombay Rents, Hotel and Lodging Houses <sup>Control</sup> Bill, 1947, on the 13th January 1948."

RESOLUTION.

The law should be <sup>published as</sup> Bombay Act No. LVII of 1947,  
in the Bombay Government Gazette dated the 19th January 1948.

2. The Act should be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Health and Local Government Department.

By order of the Governor of Bombay,

Sd/-

S.L. Chandhari,  
Assistant Secretary to Government.

To.

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department),

The Health and Local Government Department,  
The Oriental Translator to Government, with  
The Bombay Legislature Department, a copy of  
The Director of Publicity, Bombay, the Act.  
The Enquiry Officer for the Secretariat,  
Bombay.

\*With five extra copies of the Act.

M.R.D.  
28-5-56

31.5

117 445

L. A. BILL No. LIII OF 1947.

*A Bill to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions.*

(As read for the third time and passed by the Legislative Assembly on the 3rd November 1947.)

WHEREAS it is expedient to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions; It is hereby enacted as follows:—

PART I.

*Preliminary.*

1. This Act may be called the Bombay Rents, Hotel and Short title.  
Lodging House Rates Control Act, 1947.

2. (1) Parts I and IV of this Act shall extend to the whole Extent.  
of the Province of Bombay.

(2) Parts II and III shall extend respectively to the areas specified in Schedules I and II to this Act and shall continue  
5 to extend to any such area notwithstanding that the area ceases to be of the description therein specified.

(3) The Provincial Government may, by notification in the *Official Gazette*, extend to any other area any or all of the provisions of Part II or Part III or of both.

10 (4) The Provincial Government may, at any time by like notification direct that any or all of the provisions of Part II or Part III or of both, as the case may be, shall cease to extend to such area and on such date as may be specified in the notification; and on that date the said provisions  
15 shall cease to be in force in such area.

Commence-  
ment and  
duration.

3. (1) This Act shall come into operation on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

(2) It shall remain in force upto and inclusive of the 31st day of March 1950 :

5

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period not exceeding two years.

(3) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act or upon this Act or any provision thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act.

Bom.  
I of  
1904.

10

Exemptions.

4. (1) This Act shall not apply to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises, taken on lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government or a local authority.

5

(2) The Provincial Government may direct that all or any of the provisions of this Act shall not apply to premises used for a public purpose of a charitable nature.

10

Definitions.

5. In this Act unless there is anything repugnant to the subject or context—

(1) "fair rate" means the rate fixed under section 33 and includes the rate as revised under section 34 ;

5

(2) "hotel or lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration ;

(3) "landlord" means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person not being a tenant who from time to time derives title under a landlord; and further includes in respect of his sub-tenant a tenant who has sub-let any premises ;

10

15

(4) "legal representative" means a legal representative as defined in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which the deceased person was a member ;

20

V of  
1908.

44/

25 (5) "manager of a hotel" includes any person in charge of the management of a hotel;

30 (6) "owner of a lodging house" includes any person who receives or is entitled to receive, whether on his own account or on behalf of himself and others or as an agent or trustee, any monetary consideration from any person on account of board, lodging or other service;

(7) "permitted increase" means an increase in rent permitted under the provisions of this Act;

35 (8) "premises" means—

(a) any land not being used for agricultural purposes,

(b) any building or part of a building let separately (other than a farm building) including—

40 (i) the garden, grounds, garages and outhouses, if any, appurtenant to such building or part of a building,

(ii) any furniture supplied by the landlord for use in such building or part of a building,

45 (iii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house;

50 (9) "prescribe" means prescribe by rules and prescribed shall be construed accordingly;

(10) "standard rent" in relation to any premises means—

Bom.  
XVI of 55  
1939.  
Bom.  
VII of  
1944.

(a) where the standard rent is fixed by the Court and the Controller respectively under the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, such standard rent; or

(b) where the standard rent is not so fixed,—

subject to the provisions of section 11,

60 (i) the rent at which the premises were let on the first day of September 1940, or

(ii) where they were not let on the first day of September 1940, the rent at which they were last let before that day, or

(iii) where they were first let after the first day of 65  
September 1940, the rent at which they were first  
let, or

(iv) in any of the cases specified in section 11,  
the rent fixed by the Controller;

(11) "tenant" means any person by whom or on 70  
whose account rent is payable for any premises and  
includes—

(a) such sub-tenants and other persons as have derived  
title under a tenant before the coming into operation  
of this Act, 75

(b) any person remaining, after the determination  
of the lease, in possession, with or without the assent  
of the landlord, of the premises leased to such person or  
his predecessor who has derived title before the  
coming into operation of this Act, 80

(c) any member of the tenant's family residing with  
him at the time of his death as may be decided in  
default of agreement by the Controller.

## PART-II.

### *Residential and other premises.*

**Application.** 6. (1) In areas specified in Schedule I, this Part shall  
apply to premises let for residence, education, business, trade,  
storage or any other purpose notified in the *Official Gazette*  
by the Provincial Government.

(2) In areas to which this Part is extended under sub- 5  
section (3) of section 2, it shall apply to premises let for such  
of the purposes referred to in, or notified under, sub-section  
(1) or let for such standard rent as the Provincial Government  
may, by notification in the *Official Gazette*, specify.

**Rent in  
excess of  
standard  
rent illegal.**

7. Except where the rent is liable to periodical incre-  
ment by virtue of an agreement entered into before the first  
day of September 1940, it shall not be lawful to claim or receive  
on account of rent for any premises any increase above the  
standard rent, unless the landlord was, before the coming  
into operation of this Act, entitled to recover such increase  
under the provisions of the Bombay Rent Restriction Act,  
1939, or the Bombay Rents, Hotel Rates and Lodging House  
Rates (Control) Act, 1944, or is entitled to recover such  
increase under the provisions of this Act.

5.  
Bom.  
XVI  
of  
1939.  
Bom.  
10 VII of  
1944.

249

8. (1) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.
- Cases where rent to be deemed and not to be deemed to be increased.

- (2) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.

9. A landlord shall be entitled to make such increase in the rent of the premises, as may be reasonable, for any improvement or structural alteration of the premises which has been made with the consent of the tenant given in writing; and such increase shall not be deemed to be an increase for the purposes of section 7.
- Increase in rent on account of improvement, etc., excepted.

*Explanation.*—In this section improvements and alterations do not include the repairs which the landlord is bound to make under sub-section (1) of section 23.

10. Where a landlord is required to pay to a local authority in respect of any premises any rate, cess or tax imposed or levied for the purposes of such authority, he shall be entitled to make an increase in the rent of the premises by an amount not exceeding the increase paid by him in such rate, cess or tax in the period of assessment which included the date of the coming into operation of this Act, and such increase in rent shall not be deemed to be an increase for the purposes of section 7.
- Increase in rent on account of payment of rates, etc., excepted.

11. (1) In any of the following cases the Court may upon an application made to it for that purpose, or in any suit or proceeding fix the standard rent at such amount as, having regard to the provisions of this Act and the circumstances of the case, the Court deems just—
- Court may fix standard rent and permitted increases in certain cases.

- (a) where any premises are first let after the first day of September 1940, and the rent at which they are so let is in the opinion of the Court excessive; or
- (b) where the Court is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (10) of section 5; or

(c) where by reason of the premises having been let at one time as a whole or in parts and at another time in parts

or as a whole, or for any other reason, any difficulty arises in giving effect to this Part; or 15

(d) where any premises have been or are let rent-free or at a nominal rent or for some consideration in addition to rent; or

(e) where there is any dispute between the landlord and the tenant regarding the amount of standard rent. 20

(2) If there is any dispute between the landlord and the tenant regarding the amount of permitted increases the Court may determine such amount.

(3) If an application for fixing the standard rent or for determining the permitted increases is made by a tenant who has received a notice from his landlord under sub-section (2) of section 12, the Court shall forthwith make an order specifying the amount of rent or permitted increases to be paid by the tenant pending the final decision of the application, and a copy of such order shall be served upon the landlord. 25 30

No ejectment ordinarily to be made if tenant pays or is ready and willing to pay standard rent and permitted increases.

12. (1) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, the amount of the standard rent and permitted increases, if any, and observes and performs the other conditions of the tenancy, in so far as they are consistent with the provisions of this Act. 5

(2) No suit for recovery of possession shall be instituted by a landlord against a tenant on the ground of non-payment of the standard rent or permitted increases due, until the expiration of one month next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882. 10 IV of 1882.

(3) No decree for eviction shall be passed in any such suit if, at the hearing of the suit, the tenant pays or tenders in Court the standard rent or permitted increases then due together with the costs of the suit. 11

*Explanation.*—In any case where there is a dispute as to the amount of standard rent or permitted increases recoverable under this Act the tenant shall be deemed to be ready and willing to pay such amount if, before the expiry of the period of one month after notice referred to in sub-section (2), he makes an application to the Court under sub-section (3) of section 11 and thereafter pays or tenders the amount of rent or permitted increases specified in the order made by the Court. 20 25

13. (1) Notwithstanding anything contained in this Act, a landlord shall be entitled to recover possession of any premises if the Court is satisfied—

When landlord may recover possession.

- IV of 1882.
- 5 (a) that the tenant has committed any act contrary to the provisions of clause (c) of section 108 of the Transfer of Property Act, 1882; or
- 10 (b) that the tenant has, without the landlord's consent given in writing, erected on the premises any permanent structure; or
- 15 (c) that the tenant or any person residing with the tenant has been guilty of conduct which is a nuisance or annoyance to the adjoining or neighbouring occupiers, or has been convicted of using the premises or allowing the premises to be used for immoral or illegal purposes; or
- 20 (d) that the tenant has given notice to quit and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps, as a result of which he would, in the opinion of the Court, be seriously prejudiced if he could not obtain possession of the premises; or
- 25 (e) that the tenant has, since the coming into operation of this Act, sub-let the whole or part of the premises or assigned or transferred in any other manner his interest therein; or
- 30 (f) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the coming into operation of this Act, to be in such service or employment; or
- 35 (g) that the premises are reasonably and *bona fide* required by the landlord for occupation by himself or by any person for whose benefit the premises are held; or
- 40 (h) that the premises are reasonably and *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the premises being vacated; or
- 45 (i) that where the premises are land, such land is reasonably and *bona fide* required by the landlord for the erection of a new residential building; or
- 50 (j) that the rent charged by the tenant for the premises or any part thereof which are sub-let before the coming into operation of this Act is in excess of the standard rent and permitted increases in respect of such premises or part or that the tenant has received any fine, premium, other like sum or consideration in respect of such premises or part; or
- (k) that the premises have not been used without reasonable cause for the purpose for which they were let for a continuous period of six months immediately preceding the date of the suit; or

(1) that the tenant after the coming into operation of this Act has built, acquired vacant possession of or been allotted a suitable residence. 55

(2) No decree for eviction shall be passed on the ground specified in clause (g) of sub-section (1) if the Court is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by passing the decree than by refusing to pass it. 60

Where the Court is satisfied that no hardship would be caused either to the tenant or to the landlord by passing the decree in respect of a part of the premises, the Court shall pass the decree in respect of such part only. 65

*Explanation.*—For the purposes of clause (g) of sub-section (1)—

(a) a person shall not be deemed to be a landlord unless he has acquired his interest in the premises at a date prior to the beginning of the tenancy, or the first day of January 1947, whichever is later or, if the interest has devolved on him by inheritance or succession, his predecessor-in-title had acquired the interest at a date prior to the beginning of the tenancy or the first day of January 1947, whichever is later; 70 75

(b) the expression “landlord” shall not include a rent-farmer or rent-collector or manager.

(3) The Court may pass the decree on the ground specified in clause (h) or (i) of sub-section (1) only in respect of a part of the premises which in its opinion it is necessary to vacate for carrying out the work of repairs or erection. 80

(4) For the purposes of clause (j) of sub-section (1) the standard rent or permitted increases in respect of the part sub-let shall be the amounts bearing such proportion to the standard rent or permitted increases in respect of the premises as may be reasonable having regard to the extent of the part sub-let and other relevant considerations. 85

Sub-tenant to become tenant on determination of tenancy.

14. Where the interest of a tenant of any premises is determined for any reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let before the coming into operation of this Act shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions as he would have held from the tenant if the tenancy had continued. 5

Tenant not to sub-let or transfer after this Act.

15. Notwithstanding anything contained in any law, it shall not be lawful after the coming into operation of this Act for any tenant to sub-let the whole or any part of the premises let to him or to assign or transfer in any other manner his interest therein. 5

453

16. (1) The Court shall when passing a decree on the ground specified in clause (h) of sub-section (1) of section 13 ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and if the tenant so elects, shall record the fact of the election in the decree and specify in the decree the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs.

Recovery of possession for repairs; and re-entry.

(2) If the tenant delivers possession on or before the date specified in the decree, the landlord shall, on the completion of the work of repairs, place the tenant in occupation of the premises or part thereof on the original terms and conditions.

(3) If, after the tenant has delivered possession on or before the date specified in the decree, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (2), the Court may, on the application of the tenant made within one year of the specified date, order the landlord to place him in occupation of the premises or part thereof on the original terms and conditions; and on such order being made the landlord and any person who may be in occupation shall give vacant possession to the tenant of the premises or part thereof.

(4) Any landlord who, when the tenant has vacated by the date specified in the decree, without reasonable excuse fails to commence the work of repairs and any landlord or other person in occupation of the premises who fails to comply with the order made by the Court under sub-section (3), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

17. (1) Where a decree for eviction has been passed by the Court on the ground specified in clause (g) or (i) of sub-section (1) of section 13 and the premises are not occupied for the work of erection is not commenced within a period of one month from the date the landlord recovers possession, or the premises are relet within one year of the said date to any person other than the original tenant, the Court may, on the application of the original tenant made within thirteen months of such date, order the landlord to place him in occupation of the premises on the original terms and conditions, and on such order being made, the landlord and any person who may be in occupation of the premises shall give vacant possession to the original tenant.

Recovery of possession for occupation etc., and re-entry.

(2) Any landlord who recovers possession on the ground specified in clause (g) or (i) of sub-section (1) of section 13 and keeps the premises unoccupied or does not commence the

work of erection without reasonable excuse within the period of one month from the date he recovered possession and any landlord or other person in occupation of the premises who fails to comply with the order of the Court under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both. 20

Unlawful  
charges by  
landlord.

18. (1) If any landlord either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of the landlord receives any fine, premium or other like sum or deposit or any consideration, other than the standard rent or the permitted increases, in respect of the grant, renewal or continuance of a lease of any premises, or for giving his consent to the transfer of a lease by sub-lease or otherwise, such landlord or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him, and further where the offence is committed by a landlord in respect of premises which were of his ownership on the date of the offence such premises shall be liable to confiscation. 5 10 15

(2) Where any fine, premium or other like sum or deposit or any consideration referred to in sub-section (1) is paid by any person, the amount or value thereof shall be recoverable by him from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, if such person is a tenant, without prejudice to any other remedy for recovery, be deducted by him from any rent payable by him to such landlord. 20 25

(3) Nothing in this section shall apply to any payment made under any agreement entered into before the first day of September 1940.

*Explanation.*—For the purposes of sub-section (1)—

(a) receipt of rent in advance for more than three months in respect of premises let for the purpose of residence, or 30

(b) where any furniture or other article is sold by the landlord to the tenant either before or after the creation of tenancy of any premises, the excess of the price received over the reasonable price of the furniture or article ; 35

shall be deemed to be a fine or premium or consideration.

Unlawful  
charges by  
tenant.

19. (1) It shall not be lawful for the tenant or any person acting or purporting to act on behalf of the tenant to claim or receive any sum or any consideration as a condition of the relinquishment of his tenancy of any premises.

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- 5 (2) Any tenant or person who in contravention of the provisions of sub-section (1) receives any sum or consideration shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the sum or the value of the consideration received by him.

- 10 20. Any amount paid on account of rent after the date of the coming into operation of this Act shall, except in so far as payment thereof is in accordance with the provisions of this Act, be recoverable by the tenant from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, without prejudice to any other remedy for recovery, be deducted by such tenant from any rent payable by him to such landlord.

Recovery of amounts paid not in accordance with Act.

- 5 21. (1) Every landlord shall, upon a notice sent by the tenant by post, furnish to such tenant within one month of the receipt of such notice a statement giving full particulars of the amount of standard rent of the premises or part thereof let to such tenant and of the permitted increases.

Landlord to furnish particulars of rent, etc. to tenant.

- 10 (2) Any landlord who fails to furnish such statement or any landlord or his agent who intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

- 5 22. (1) Every tenant who before the date of the coming into operation of this Act, has, without the consent of the landlord given in writing, sub-let the whole or any part of the premises let to him or assigned or transferred in any other manner his interest therein, and every sub-tenant to whom the premises are so sub-let or the assignment or transfer is so made shall furnish to the landlord upon a notice sent by the landlord by post, a statement in writing signed by him giving full particulars of such sub-letting, assignment or transfer including the rent charged or paid by him.

Particulars to be furnished by tenant of tenancy sub-let or transferred before this Act.

- 10 (2) Any tenant or sub-tenant who fails to furnish such statement or intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

- 5 23. (1) Notwithstanding anything contained in any law for the time being in force and in the absence of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair.

Landlord's duty to keep premises in good repair.

- (2) If the landlord neglects to make within a reasonable time, after a notice is served by post, any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such

repairs from the rent or otherwise recover them from the landlord : 10

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

Landlord not to cut off or withhold essential supply or service.

24. (1) No landlord either himself or through any person acting or purporting to act on his behalf shall without just or sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him. 5

(2) A tenant in occupation of the premises may, if the landlord has contravened the provisions of sub-section (1), make an application to the Court complaining of such contravention.

(3) If the Court on inquiry finds that the tenant has been in enjoyment of the essential supply or service and that it was cut off or withheld by the landlord without just or sufficient cause; the Court shall make an order directing the landlord to restore such supply or service before a date to be specified in the order. Any landlord who fails to restore the supply or service before the date so specified shall for each day during which the default continues thereafter be liable to fine which may extend to one hundred rupees. 10 15

(4) Any landlord who contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both. 20

*Explanation.*—In this section essential supply or service includes supply of water, electricity, lights in passages and on stair-cases, lifts and conservancy or sanitary service. 25

Conversion of residential premises into non-residential premises prohibited.

25. (1) A landlord shall not use or permit to be used for a non-residential purpose any premises which on the date of the coming into operation of this Act were used for a residential purpose.

(2) Any landlord who contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both. 5

Giving receipt for rent compulsory.

26. (1) Every landlord shall give a written receipt for any amount received by him in respect of any premises in such form and in such manner as may be prescribed.

(2) Any landlord or person who fails to give a written receipt for any amount received by him in respect of any premises shall, on conviction, be punishable with fine which may extend to one hundred rupees. 5

Recovery of rent according to British calendar.

27. (1) Notwithstanding anything contained in any law for the time being in force or any contract, custom or local usage to the contrary, rent payable by the month or year or portion of a year shall be recovered according to the British calendar.

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(2) The Provincial Government may prescribe the manner in which rent recoverable according to any other calendar before the coming into operation of this Act shall be calculated and charged in terms of the British Calendar.

28. Notwithstanding anything contained in any law and Jurisdiction notwithstanding that, by reason of the amount of the claim or of courts. for any other reason, the suit or proceeding would not, but for this provision, be within its jurisdiction,

5 (a) in Greater Bombay, the Court of Small Causes, Bombay, and

(b) elsewhere, the court of the Civil Judge (Junior Division) having jurisdiction in the area in which the premises are situate or, if there is no such Civil Judge, the court of the Civil Judge (Senior Division) having ordinary jurisdiction,

10 shall have jurisdiction to entertain and try any suit or proceeding between a landlord and a tenant relating to the recovery of rent or possession of any premises to which any of the provisions of this Part apply and to decide any application made under this Act and to deal with any claim or question arising out of this Act or any of its provisions; and no other court shall have jurisdiction to entertain any such suit, proceeding or application or to deal with such claim or question.

15 *Explanation*.—In this section “proceeding” does not include an execution proceeding arising out of a decree passed before the coming into operation of this Act.

29. (1) Notwithstanding anything contained in any law, Appeal. an appeal shall lie—

5 (a) in Greater Bombay, from a decree or order made by a Court of Small Causes, Bombay, exercising jurisdiction under section 28, to a bench of two judges of the said Court which shall not include the judge who made such decree or order;

(b) elsewhere, from a decree or order made by a Civil Judge exercising such jurisdiction, to the District Court.

(2) No further appeal shall lie against any decision in appeal under sub-section (1).

30. If the court finds that any suit, proceeding or application instituted or made before it is not instituted or made *bona fide* or is false, frivolous or vexatious, the court may, after hearing the plaintiff or applicant and for reasons to be recorded, order that compensation, not exceeding one thousand rupees, be paid by such plaintiff or applicant to the defendant or opponent, as the case may be.

31. The courts specified in sections 28 and 29 shall follow the prescribed procedure in trying and hearing suits, proceedings, applications and appeals and in executing orders.

## PART III.

*Hotels and Lodging-Houses.*

Appointment  
of Controller.

32. The Provincial Government may by notification in the *Official Gazette* appoint any person to be a Controller for any area for the purposes of this Part.

Fixation of  
fair rates  
and number  
of lodgers.

33. (1) The Controller may fix a fair rate to be charged for board, lodging or other service provided in a hotel or lodging house at such amount as, having regard to the circumstances of the case, he deems just.

(2) The Controller may fix a fair rate separately for—

(i) lodging with reference to the nature of the accommodation and the number of lodgers to be accommodated;

(ii) board, partial or full;

(iii) other service.

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(3) The Controller may fix fair rates separately for daily and monthly lodgers.

(4) The Controller shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel or lodging house.

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Revision of  
fair rates\*  
and number  
of lodgers.

34. The Controller may, from time to time, revise the fair rates or the number of lodgers fixed under section 33.

Continuance  
of fair  
rates before  
coming  
into  
operation  
of this  
Part.

35. Fair rates fixed under the Bombay Hotels and Lodging Houses Control Order, 1942, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and which were in force immediately before the coming into operation of this Part shall be deemed to have been fixed under this Part, and the provisions of this Part shall apply in respect of such rates.

Bom.  
VII  
of  
5 1944.

Notice of  
fair rate  
and number  
of lodgers  
to be  
displayed.

36. Where under section 33 or section 34 the Controller has fixed or revised the fair rate or the number of lodgers he shall direct the manager of the hotel or the owner of the lodging house, as the case may be, to display a notice of the fair rate, the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel or lodging house and also in the room or accommodation in respect of which the fair rate and the number of lodgers are fixed or revised.

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Charges not  
recoverable  
in excess of  
fair rate.

37. (1) Notwithstanding any agreement to the contrary, no manager of a hotel or owner of a lodging house shall charge any amount in excess of the fair rate.

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(2) When the Controller has fixed the fair rate any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate.

(3) Any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of payment from the manager of the hotel or the owner of the lodging house or his legal representative, and may, without prejudice to any other remedy for recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

38. No manager of a hotel or owner of a lodging house shall evict or refuse board or other service to a lodger so long as he pays, or is ready and willing to pay, the fair rate and observes and performs the other conditions of his agreement in so far as they are consistent with the provisions of this Act.

No ejectment ordinarily to be made if fair rate paid.

39. Notwithstanding anything contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying that—

When manager of a hotel or owner of lodging house may recover possession.

(a) the lodger has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring lodger; or

(b) the accommodation is reasonably and bona fide required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or for any other cause which may be deemed satisfactory by the Controller.

40. (1) If any manager of a hotel or owner of a lodging house either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of a manager of a hotel or owner of a lodging house receives any fine, premium or other like sum deposit or any consideration other than the fair rate, in respect of the grant or continuance of accommodation in the hotel or lodging house, such manager, owner or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him.

Penalties

(2) Any manager of a hotel or owner of a lodging house who charges any amount in excess of the fair rate in contravention of section 37 shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine, or with both. 15

(3) Any manager of a hotel or owner of a lodging house who accommodates lodgers or permits lodgers to be accommodated in a room or specified accommodation in excess of the number fixed by the Controller shall, on conviction, be punishable with fine which may extend to one thousand rupees. 20

(4) Any manager of a hotel or owner of a lodging house who fails to display a notice in contravention of the Controller's direction under section 36 shall, on conviction, be punishable with fine which may extend to five hundred rupees. 25

Provisions relating to inquiries by Controller.

41. (1) No order under this Act shall be made by the Controller except after holding an inquiry.

(2) Every such inquiry shall be made summarily in the prescribed manner.

(3) For the purposes of holding an inquiry under subsection (1) the Controller shall have the same powers as are vested in Civil Courts in respect of— 5

- (a) proof of facts by affidavits,
- (b) summoning and enforcing the attendance of any person and examining him on oath, 10
- (c) compelling the production of documents, and
- (d) issuing commissions for the examination of witnesses.

(4) The Controller may himself enter or authorize any person subordinate to him to enter upon any premises, hotel or lodging house or any part thereof to which the inquiry relates. 15

Appeal.

42. An appeal shall lie to the Provincial Government from an order passed by the Controller under the provisions of this Part (including an order granting or refusing a certificate under section 39) within fifteen days from the date of communication of the order and the Provincial Government may pass such order as it deems fit. 5

Procedure of Courts in suits.

43. The provisions contained in sections 28, 29, 30 and 31 shall apply to suits by a manager of a hotel or an owner of a lodging house against a lodger for recovery of charges for, or possession of, the accommodation provided in the hotel or lodging house. 5

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XLV  
of  
1860.

44. A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Controller  
to be  
deemed  
public  
servant.

XLV  
of  
1860.

45. All proceedings before a Controller shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code.

All pro-  
ceedings  
before a  
Controller to  
be judicial  
proceedings.

46. No suit, prosecution or other legal proceeding shall lie against a Controller in respect of anything in good faith done or intended to be done under this Act.

Protection  
of action  
taken under  
this Act.

#### PART IV

#### MISCELLANEOUS.

47. (1) Offences under sections 16, 17, 18, 19, sub-section (4) of section 24, section 25 and sub-sections (1) and (2) of section 40 shall be cognizable and shall not be triable by any Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class.

Certain  
offences  
to be  
cognisable.

V of  
1893.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a magistrate trying offences under this Act to pass sentences of fine or to award any punishment under this Act in excess of his powers.

48. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), or a firm every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Offence by  
companies,  
etc.

49. (1) The Provincial Government may, by Rules, notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

(i) the form and the manner in which a receipt is to be given under sub-section (1) of section 26;

(ii) the manner in which rent recoverable according to any calendar other than the British calendar before the coming into operation of this Act shall be calculated and charged in terms of the British calendar under sub-section (2) of section 27; 10

(iii) the procedure to be followed in trying or hearing suits, proceedings (including proceedings for execution of decrees and distress warrants), applications, appeals and execution of orders; 15

(iv) the manner in which inquiries shall be made summarily under sub-section (2) of section 41;

(v) levy of court fees in suits, proceedings and applications instituted before a Court or Controller. 20

Repeal. 50. The Bombay Rent Restriction Act, 1939, and the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, are hereby repealed:

Bom.  
XVI  
of  
1939.  
Bom.  
VII of  
1944.

Provided that all suits and proceedings (other than execution proceedings and appeals) between a landlord and a tenant relating to the recovery or fixing of rent or possession of any premises to which the provisions of Part II apply and all suits and proceedings by a manager of a hotel or an owner of a lodging house against a lodger for the recovery of charges for, or possession of, the accommodation provided in a hotel or lodging house situate in an area to which Part III applies, which are pending in any Court, shall be transferred to and continued before the Courts which would have jurisdiction to try such suits or proceedings under this Act; and thereupon all the provisions of this Act and the rules made thereunder shall apply to all such suits and proceedings: 5 10 15

Provided further that—

(a) every order passed or act done by the Controllers under Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and every order or act deemed to have been passed or done under that Part shall be deemed to have been passed or done under this Act; and 20

Bom.  
VII  
of  
1944.

(b) all proceedings pending before the Controllers under Part IV of that Act shall be transferred to and continued before the Controllers appointed under this Act as if they were proceedings instituted before the Controllers under this Act. 25

SCHEDULE I.

[See section 2 (2)]

- (i) The City of Bombay. (23) Sahijpur Bogha Village.
- (ii) The Bombay Suburban District. (24) Dariapur-Kajipur Village.
- (iii) The Thana District. (25) Hansol Village.
- (iv) The Nasik District. (26) Acher Village..
- (v) (a) *Ahmedabad District*— (b) *Kaira District*—
- (1) Ahmedabad Municipal Borough. (1) Anand Municipal District.
- (2) Ahmedabad Cantonment. (2) Borsad Municipal District.
- (3) Kochrab Village. (3) Mehmedabad Municipal District.
- (4) Paldi Village. (4) Kapadwanj Municipal District.
- (5) Madalpur Village. (5) Unreth Municipal District.
- (6) Changisपुर Village. (6) Dakore Municipal District.
- (7) Shekhpur-Khanpur Village. (7) Kaira Municipal District.
- (8) Vasna-Maktampur Village. (8) Nadiad Municipal Borough.
- (9) Vadaj Village. (9) Matar Village.
- (10) Usmanpur Village. (10) Thasra Village..
- (11) Ranip Village.
- (12) Survey Nos. 149, 150 and 151 of Memnagar Village. (c) *Broach District*—
- (13) Baherampur Village. (1) Broach Municipal Borough.
- (14) Ranip-Hirpur Village. (2) Ankleshwar Municipal District.
- (15) Dani Limda Village. (3) Jambusar Municipal District.
- (16) Gomtipur Village. (d) *Panch Mahals District*—
- (17) Khokra-Mahmedabad Village. (1) Dohad Municipal District.
- (18) Amraivali Village. (2) Godhra Municipal Borough.
- (19) Rakhial Village. (3) Jhalod Village.
- (20) Saraspur Village. (4) Halol Village.
- (21) Asarva Village. (5) Kalol Village.
- (22) Revenue Survey Nos. 1077 to 1140 of Naroda Village. (6) Derol Village.
- (7) Vejalpore Village.

## SCHEDULE I—contd.

(e) *Surat District—*

- (1) Surat Municipal Borough.
- (2) Bulsar Municipal District.
- (3) Rander Municipal District.
- (4) Jalalpore Village.
- (5) Mandvi Village.
- (6) Pardi Village.

(f) *Ahmednagar District—*

- (1) Ahmednagar Municipal Borough.
- (2) Ahmednagar Cantonment.
- (3) Sangamner Municipal District.
- (4) Kopargaon Municipal District.
- (5) Shirampur Municipal District.
- (6) Akola-Village.
- (7) Rahuri Budruk Village.
- (8) Newasa Budruk Village.
- (9) Shevgaon Village.
- (10) Shrigonda Village.
- (11) Pathardi Village.
- (12) Karjat Village.
- (13) Jamkhed Village.
- (14) Parner Village.
- (15) Belapur Budruk Village.
- (16) Newasa Khurd Village.
- (17) The Revenue Village of Rahuri Khurd.
- (18) The Revenue Village of Belapur Khurd.

(g) *East Khandesh District—*

- (1) Jalgaon Municipal Borough.
- (2) Bhusaval Municipal Borough.
- (3) Amalner Municipal Borough.
- (4) Chalisgaon Municipal Borough.
- (5) Pachora Municipal District.
- (6) Chopda Municipal District.
- (7) Yawal Municipal District.
- (8) Raver Municipal District.
- (9) Sayda Municipal District.
- (10) Faizpur Municipal District.

(h) *West Khandesh District—*

- (1) Nandurbar Municipal District.
- (2) Dhulia Municipal Borough.

(i) *Poona District—*

- (1) Lonavla Municipal Borough.
- (2) Poona City Municipal Borough.
- (3) Poona Suburban Municipal Borough.

(j) *Poona District—*

- (4) Poona Cantonment.
- (5) Aundh Road area which is under the jurisdiction of the Bapodi Gram Panchayat near Kirkee.
- (6) The Village of Dapodi, Haveli Taluka.
- (7) Baramati Municipal District.

(j) *Satara District—*

- (1) Satara City Municipal Borough.
- (2) Satara Suburban Municipal District.
- (3) Karad Municipal Borough.
- (4) Wai Municipal District.
- (5) Panchgani Municipal District.
- (6) Mahabaleshwar Municipal District.
- (7) Tasgaon Municipal District.

(k) *Sholapur District—*

- (1) Sholapur Municipal Borough.
- (2) Barsi Municipal Borough.
- (3) Pandharpur Municipal Borough.
- (4) Karmala Municipal District.
- (5) Sangola Municipal District.
- (6) Madha Village.
- (7) Mohol Village.
- (8) Malsiras Village.
- (9) Kurduwadi Village.
- (10) Tembhurni Village.
- (11) Akluj Village.
- (12) Vairag Village.

(l) *Belgaum District—*

- (1) Belgaum Municipal Borough.
- (2) Belgaum Cantonment.
- (3) Nipani Municipal Borough.
- (4) Athni Municipal District.
- (5) Gokak Municipal District.
- (6) Saundatti-Yellama Municipal District.
- (7) Bailhongal Municipal District.

(m) *Bijapur District—*

- (1) Bijapur Municipal Borough.
- (2) Bagalkot Municipal District.

SCHEDULE I—*concl'd.*(n) *Dharwar District—*

- (1) Dharwar Municipal Borough.
- (2) Hubli Municipal Borough.
- (3) Gadag-Betgeri Municipal Borough.
- (4) Haveri Municipal District.
- (5) Ranebennur Municipal District.
- (6) Navalgund Municipal District.
- (7) Nargund Municipal District.
- (8) Byadgi Municipal District.
- (9) Gudguddapur Municipal District.
- (10) Kalaghatgi-Bendigiri Village.
- (11) Karajgi-Chikmagdur Village.
- (12) Hangal Village.
- (13) Ron Village.
- (14) Mundarg Village.
- (15) The Revenue Village of Bankapur.
- (16) The Revenue Village of Kod.
- (17) Gajendragad Village.
- (18) Annigeri Village.
- (19) Hirekerur Village.
- (20) Shiggaon Village.

(o) *Kanara District—*

- (1) Karwar Municipal District.
- (2) Kumta Municipal District.
- (3) Gokarn Municipal District.
- (4) Bhatkal Municipal District.
- (5) Sirsi Municipal District.
- (6) Ankola Panchayat Group.
- (7) Siddapur Panchayat Group.

(p) *Kolaba District—*

- (1) Aibag Municipal District.
- (2) Mahad Municipal District.
- (3) Panvel Municipal District.
- (4) Pen Municipal District.
- (5) Roha-Ashtami Municipal District.
- (6) Uran Municipal District.
- (7) Karjat Village.

(q) *Ratnagiri District—*

- (1) Ratnagiri Municipal Borough.
- (2) Chiplun Municipal District.
- (3) Malwan Municipal District.
- (4) Vengurla Municipal District.

## SCHEDULE II.

[See section 2 (2)].

(i) *The City of Bombay.*(ii) *Ahmednagar District—*

- (1) Ahmednagar Municipal Borough.
- (2) Ahmednagar Cantonment.
- (3) Sangamner Municipal District.
- (4) Kopergaon Municipal District.
- (5) Shrirampur Municipal District.
- (6) Akola Village.
- (7) Rahuri Budruk Village.
- (8) Newasa Village.
- (9) Shevgaon Village.
- (10) Shrigonda Village.
- (11) Pathardi Village.
- (12) Karjat Village.
- (13) Jamkhed Village.
- (14) Parner Village.
- (15) Belapur Budruk Village.
- (16) Newasa Khurd Village.
- (17) The revenue Village of Rahuri Khurd.
- (18) The revenue Village of Belapur Khurd.

(iii) *Eas Khandesh District—*

- (1) Jalgaon Municipal Borough.
- (2) Bhilsaval Municipal Borough.
- (3) Amalner Municipal Borough.
- (4) Chalisgaon Municipal Borough.
- (5) Pachora Municipal District.
- (6) Chopda Municipal District.
- (7) Yawal Municipal District.
- (8) Raver Municipal District.
- (9) Savda Municipal District.
- (10) Faizpur Municipal District.

(iv) *West Khandesh District—*

- (1) Dhulia Municipal Borough.
- (2) Nandurbar Municipal District.

(v) *Poona District—*

- (1) Poona City Municipal Borough.
- (2) Poona Suburban Municipal Borough.
- (3) Poona Cantonment.
- (4) Kirkee Cantonment.
- (5) Lonavla Municipal Borough, including the Khandala area.
- (6) Dhond Municipal District.

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## STATEMENT OF OBJECTS AND REASONS.

Control over rents of residential and other accommodation at present exercised in varying degrees in several parts of the Province of Bombay under the Bombay Rent Restriction Act, 1939, and the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944. The former Act, the principal object of which is to prevent an increase in rents of premises with a rental not exceeding Rs. 80 per mensem in areas in which the urban immovable property tax was imposed by Government in 1939, has been continued from year to year and, in the ordinary course, will lapse on the 31st March 1948. The latter Act, which was intended to check an inflationary rise in rents and hotel and lodging house rates in areas in which, owing to war conditions, there was an acute scarcity of accommodation, will lapse in April 1948 unless re-enacted before then. The conditions which led to the enactment of these measures continue in an even more aggravated form and it is, therefore, essential that effective control should be continued until sufficient progress has been made with building operations to provide adequate and suitable accommodation for the largely increased populations of the areas concerned. L. A. Bill No. XVII of 1947 was accordingly introduced in the Bombay Legislative Assembly in February 1947, with the object of consolidating and continuing the provisions of the two Acts so far as control over the rental and letting of residential and other premises were concerned, provision for control over hotel rates and lodging house rates being left to be governed by Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, which it was intended should only continue in force till it lapsed. As it has been found desirable to make several alterations in the provisions of the Bill as introduced in the Bombay Legislative Assembly and as it is also necessary to make provision for continuing control over hotel rates and lodging house rates beyond April 1948, it has been decided to introduce a revised and self-contained Bill covering control over rents of residential and other premises as well as over hotel and lodging house rates:

2. The main features of the Bill are briefly indicated in the following paragraphs :—

(a) Provision is made for continuing control over rents or hotel or lodging house rates, as the case may be, in all areas in which control is exercised at present and power is taken to extend control to new areas or to withdraw control from areas in which it is being exercised as occasion arises. Provision is also made enabling the application of control in new areas in a restricted form to premises used for specified purposes, such as education, or to premises with a standard rent below, a specified limit where more extensive control is considered unnecessary. An important feature of the Bill is that it makes the extent of control over rents uniform throughout the areas in which control is at present exercised in varying degrees.

(b) Provision has been made for the appointment of Controllers with judicial experience and for appeals from orders passed by Controllers to the Court of Small Causes, Bombay, in Greater Bombay and the District Court elsewhere, instead of the Collectors.

(c) The recovery of rent according to the British calendar has been made compulsory.

(d) Precise provision has been made for protecting the interests of the tenant in cases of dispute regarding the amount payable as rent.

(e) Precise provisions have been laid down governing the grant of certificates entitling landlords to recover possession of premises or to evict tenants, in place of the rather wide discretion left to the Courts or the Controllers under the existing Acts.

(f) At present under the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1941, a tenant can sublet the premises without the landlord's consent. Provision has now been made to prevent such sub-letting hereafter, protecting at the same time sub-tenancies entered into previously.

(g) In order to check the exploitation by a tenant of the protection given to him, provision is made for penalising him for demanding any consideration as a condition of giving up a tenancy. A tenant who charges excessive rent to a sub-tenant or takes a premium or other consideration is also made liable to eviction without affecting the right of the sub-tenant, who is in possession of the portion sub-let to him.

(h) An obligation is imposed on the landlord to keep premises in good and tenantable repair.

(i) As the existing penal provisions in regard to the taking of premia by landlords are capable of evasion, they have been suitably widened to cover the taking of premia in disguised forms. Courts are also required to impose a punishment of imprisonment as well as fine equal to the premium or consideration received and are empowered to order in addition confiscation of the premises in respect of which an offence is committed.

(j) In order to ensure that residential premises are not diverted to non-residential use, provision is made for penalising such conversion without the Controller's permission.

(k) At present a Controller has power to fix fair rates for hotels and lodging houses only when he considers the existing rates to be excessive, having regard to the rates prevailing on 1st September 1940 and the increase in the cost of living till he fixes them. He has, however, no power to revise them if there is a subsequent change in the circumstances, such as a rise or fall in prices, etc. Provision is accordingly made to give wider latitude to the Controller in fixing fair rates and to empower him to revise them from time to time.

(l) A penalty of imprisonment and fine has been imposed for receiving premia, fines or other consideration for the grant or continuation of accommodation in a hotel or lodging house.

D. N. DESAI.

Dated 30th September 1947.

**Government of Bombay**

**LEGAL DEPARTMENT**

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**[L. A. BILL No. LIII OF 1947]**

**(As read for the third time and passed by  
Legislative Assembly on the 3rd November  
1947.)**

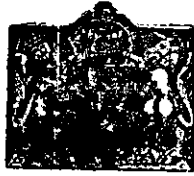
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**A Bill to amend and consolidate the law  
relating to the control of rents and repairs  
of certain premises, of rates of hotels and  
lodging houses and of evictions.**

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**[Mr. D. N. DESAI, M.L.A.]**

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# The Bombay Government Gazette

PUBLISHED BY AUTHORITY

TUESDAY, 30TH SEPTEMBER 1947.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART V

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules :—

### L. A. BILL No. LIII OF 1947.

*A Bill to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions.*

WHEREAS it is expedient to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions ; It is hereby enacted as follows :—

#### PART I.

##### *Preliminary.*

1. This Act may be called the Bombay Rents, Hotel and Short title. Lodging House Rates Control Act, 1947.

2. (1) Parts I and IV of this Act shall extend to the whole **Extent.** of the Province of Bombay.

(2) Parts II and III shall extend respectively to the areas specified in Schedules I and II to this Act and shall continue to extend to any such area notwithstanding that the area ceases to be of the description therein specified.

(3) The Provincial Government may, by notification in the *Official Gazette*, extend to any other area Part II or Part III or both.

(4) The Provincial Government may, at any time by like notification direct that Part II or Part III or both, as the case may be, shall cease to extend to such area and on such date as may be specified in the notification; and on that date the Part or Parts shall cease to be in force in such area.

Commence-  
ment and  
duration.

3. (1) This Act shall come into operation on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

(2) It shall remain in force upto and inclusive of the 31st day of March 1950:

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period not exceeding two years.

(3) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act or upon this Act or any Part thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act.

Bom.  
I of  
1904.

Application  
of the Act  
to the  
Government.

4. This Act shall not apply to any premises belonging to the Government or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government.

Definitions.

5. In this Act unless there is anything repugnant to the subject or context—

(1) "fair rate" means the rate fixed under section 26 and includes the rate as revised under section 27;

(2) "hotel or lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration;

(3) "landlord" means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person not being a tenant who from time to time derives title under a landlord; and further includes in respect of his sub-tenant a tenant who has sub-let any premises;

(4) "legal representative" means a legal representative as defined in the Code of Civil Procedure, 1908; and includes also, in the case of joint family property, the joint family of which a deceased person was a member;

V of  
1908.

(5) "manager of a hotel" includes any person in charge of the management of a hotel;

(6) "owner of a lodging house" includes any person who receives or is entitled to receive, whether on his own account or on behalf of himself and others or as an agent or trustee, any monetary consideration from any person on account of board, lodging or other service;

(7) "permitted increase" means an increase in rent permitted under the provisions of this Act;

(8) "premises" means—

(a) any land not being used for agricultural purposes,

(b) any building or part of a building let separately (other than a farm building) including—

(i) the garden, grounds, garages and outhouses, if any, appurtenant to such building or part of a building,

(ii) any furniture supplied by the landlord for use in such building or part of a building,

(iii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house;

(9) "prescribe" means prescribe by rules;

(10) "standard rent" in relation to any premises means—

(a) where the standard rent is fixed under the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, such standard rent; or

(b) where the standard rent is not so fixed—

(i) the rent at which the premises were let on the first day of September 1940, or

(ii) where they were not let on the first day of September 1940, the rent at which they were last let before that day, or

(iii) where they were first let after the first day of September 1940, the rent at which they were first let, or

(iv) in any of the cases specified in section 13, the rent fixed by the Controller ;

(11) "tenant" means any person by whom or on whose account rent is payable for any premises and includes—

(a) a sub-tenant and any person from time to time deriving title under a tenant,

(b) any person remaining, after the determination of the lease, in possession, with or without the assent of the landlord, of the premises leased to such person or his predecessor-in-title,

(c) any member of the tenant's family residing with him at the time of his death as may be decided in default of agreement by the Controller,

(d) if there is no such member, any other person residing with the tenant at the time of his death who used to pay part of the rent payable to the landlord.

Appointment of Controller. 6. (1) The Provincial Government may, by notification in the *Official Gazette*, appoint a person who holds or has held a judicial office not inferior to that of a Civil Judge or a judge of a Small Cause Court to be a Controller for the purposes of this Act or any Part thereof.

(2) The Provincial Government may appoint for any area one or more such Controllers.

## PART II.

### *Residential and other premises.*

Application. 7. (1) In areas described in Schedule I, this Part shall apply to premises let for residence, education, business, trade, storage or any other purpose notified in the *Official Gazette* by the Provincial Government.

(2) In areas to which this Part is extended under sub-section (3) of section 2, it shall apply to premises let for such of the purposes referred to in, or notified under, sub-section (1) or let for such standard rent as the Provincial Government may, by notification in the *Official Gazette*, specify.

Bom.  
XVI  
of  
1939.  
Bom.  
VII of  
1944.

8. Except where the rent is liable to periodical increment <sup>Rent in excess of standard</sup> by virtue of an agreement entered into before the first day of September 1940, it shall not be lawful to claim or receive <sup>rent illegal.</sup> on account of rent for any premises any increase above the standard rent, unless the landlord was, before the coming into operation of this Act, entitled to recover such increase under the provisions of the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, or is entitled to recover such increase under the provisions of this Act.

9. (1) Where, as the result of any alteration of the terms <sup>Cases where</sup> of the tenancy, the terms on which any premises are held <sup>rent to be</sup> are on the whole less favourable to the tenant than the <sup>deemed and</sup> previous terms, the rent shall be deemed to be increased for <sup>not to be</sup> the purposes of this Part whether the sum payable as rent <sup>deemed to be</sup> is increased or not. <sup>increased.</sup>

(2) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.

10. Where a landlord after the coming into operation <sup>Increase</sup> of this Act incurs expenditure on any reasonable improvement <sup>rent on</sup> or structural alteration of any premises (not including <sup>account</sup> expenditure on decoration or ordinary repairs), he shall be <sup>improve-</sup> entitled to make an increase in the rent of the premises at <sup>ment, etc.,</sup> a rate not exceeding six per cent. per annum on the amount <sup>excepted.</sup> so expended and such increase shall not be deemed to be an increase for the purposes of section 8.

11. Where a landlord is required to pay to a local <sup>Increase in</sup> authority in respect of any premises any rate, cess or tax <sup>rent on</sup> imposed or levied for the purposes of such authority, he <sup>account of</sup> shall be entitled to make an increase in the rent of the <sup>payment of</sup> premises by an amount not exceeding the increase paid <sup>rates, etc.,</sup> by him in such rate, cess or tax in the period of assessment <sup>excepted.</sup> which included the date of the coming into operation of this Act, and such increase in rent shall not be deemed to be an increase for the purposes of section 8.

12. (1) Notwithstanding anything contained in any law <sup>Recovery of</sup> for the time being in force or any contract, custom or local <sup>rent accord-</sup> usage to the contrary, rent payable by the month or year or <sup>ing to</sup> portion of a year shall be recovered according to the British <sup>British</sup> calendar. <sup>calendar.</sup>

(2) The Provincial Government may prescribe the manner in which rent recoverable according to any other calendar before the coming into operation of this Act shall be calculated and

charged in terms of the British calendar and any increase made in accordance with the rules shall not be deemed to be an increase for the purposes of section 8.

Controller may fix standard rent and permitted increases in certain cases.

13. (1) In any of the following cases the Controller may fix the standard rent at such amount as, having regard to the provisions of this Act and the circumstances of the case, he deems just—

(a) where any premises are first let after the first day of September 1940, and the rent at which they are so let is in the opinion of the Controller excessive or inadequate; or

(b) where the Controller is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (10) of section 5; or

(c) where by reason of the premises having been let at one time as a whole or in parts and at another time in parts or as a whole, or for any other reason, any difficulty arises in giving effect to this Part; or

(d) where there is any dispute between the landlord and the tenant regarding the amount of standard rent.

(2) If there is any dispute between the landlord and the tenant regarding the amount of permitted increases the Controller may determine such amount.

(3) If an application for fixing the standard rent or for determining the permitted increases is made by a tenant who has received a notice from his landlord under sub-section (2) of section 14, the Controller shall forthwith issue a direction to the tenant specifying the amount of rent or permitted increases to be paid by the tenant pending the final decision of the application.

No ejectment ordinarily to be made if tenant pays or is ready and willing to pay standard rent and permitted increases.

14. (1) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, the amount of the standard rent and permitted increases, if any, and observes and performs the other conditions of the tenancy, in so far as they are consistent with the provisions of this Act.

(2) No suit or proceeding for recovery of possession (other than an execution proceeding) shall be instituted by a landlord against a tenant on the ground of non-payment of the standard rent or permitted increases due, until the expiration of one month next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882.

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(3) No decree or order for eviction shall be made by any court in any such suit or proceeding if the tenant pays in court on the first day of hearing the standard rent or permitted increases then due together with the costs of the suit or proceeding.

*Explanation.*—In any case where there is a dispute as to the amount of standard rent or permitted increases recoverable under this Act the tenant shall be deemed to be ready and willing to pay such amount if, before the expiry of the period of one month after notice referred to in sub-section (2), he makes an application to the Controller under sub-section (3) of section 13 and thereafter pays or tenders the amount of rent or permitted increases specified by the Controller in the direction issued under that sub-section.

15. (1) Notwithstanding anything contained in this Act, a landlord shall be entitled to recover possession of any premises on obtaining a certificate from the Controller certifying—

Landlord may recover possession.

IV of 1882.

(a) that the tenant has committed any act contrary to the provisions of clause (c) of section 108 of the Transfer of Property Act, 1882; or

(b) that the tenant has, without the landlord's consent, constructed on the premises any permanent structure; or

(c) that the tenant or any person residing with the tenant has been guilty of conduct which is a nuisance or annoyance to the adjoining or neighbouring occupiers, or has been convicted of using the premises or allowing the premises to be used for immoral or illegal purposes; or

(d) that the condition of the premises has, in the opinion of the Controller, deteriorated owing to acts of waste by, or neglect or default of, the tenant or any person residing with the tenant; or

(e) that the tenant has given notice to quit and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps, as a result of which he would, in the opinion of the Controller, be seriously prejudiced if he could not obtain possession of the premises; or

(f) that the tenant has, since the coming into operation of this Act, sub-let or transferred in any manner the whole or part of the premises without the permission of the landlord; or

(g) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has

ceased, whether before or after the coming into operation of this Act, to be in such service or employment; or

(h) that the premises are reasonably and *bona fide* required by the landlord for occupation by himself or by his son or daughter over 21 years of age or by his father or mother or by any other person for whom under his personal law he is under a legal obligation to provide a residence, or for the occupation of any person for whose benefit the premises are held; or

(i) that the premises are reasonably and *bona fide* required by the landlord for the erection of a new building or for the repair or reconstruction of or an addition to an existing building which cannot be done without the premises being vacated; or

(j) that the rent charged by the tenant for the premises or any part thereof which are sub-let is in excess of the standard rent and permitted increases in respect of such premises or part or that the tenant has received any fine, premium, other like sum or consideration in respect of such premises or part; or

(k) that the premises have not been used without reasonable cause for the purpose for which they were let for a continuous period of six months immediately preceding the date on which an application for a certificate is made to the Controller; or

(l) that the tenant after the coming into operation of this Act has built, acquired vacant possession of or been allotted a suitable residence.

(2) No certificate under clause (h) of sub-section (1) shall be granted if the Controller is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by granting the certificate than by refusing to grant it.

Where the Controller is satisfied that no hardship would be caused either to the tenant or to the landlord by the grant of a certificate in respect of a part of the premises, he may grant a certificate in respect of such part only.

*Explanation.*—For the purposes of clause (h) of sub-section (1) a person shall not be deemed to be a landlord unless he has acquired his interest in the premises at a date prior to the beginning of the tenancy, or the first day of January 1947, whichever is later or, if the interest has devolved on him by inheritance or succession, his predecessor-in-title had acquired the interest at a date prior to the beginning of the tenancy or the first day of January 1947, whichever is later.

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(3) The Controller may grant a certificate under clause (i) of sub-section (1) only in respect of a part of the premises which in his opinion it is necessary to vacate for carrying out the work of repairs, reconstruction or addition.

(4) For the purposes of clause (j) of sub-section (1) the standard rent or permitted increases in respect of the part sub-let shall be the amounts bearing such proportion to the standard rent or permitted increases in respect of the premises as may be reasonable having regard to the extent of the part sub-let and other relevant considerations.

16. Where the interest of a tenant of any premises is determined, either as the result of the landlord recovering possession through court or otherwise or for any other reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions as he would have held from the tenant if the tenancy had continued.

Sub-tenant to become tenant on determination of tenancy.

17. (1) The Controller shall, when granting a certificate under clause (i) of sub-section (1) of section 15, certifying that any premises or part thereof are reasonably and *bona fide* required by the landlord for the repairs of an existing building, specify in the certificate the date on or before which the tenant shall deliver possession so as to enable the landlord to commence the work of repairs.

Recovery of possession for repairs; and re-entry.

(2) If the tenant delivers possession on or before the date specified in the certificate, the landlord shall, on the completion of the work of repairs, place the tenant, if he so elects within two months from the date on which possession was delivered, in occupation of the premises or part thereof on the original terms and conditions.

(3) If, after the tenant has delivered possession on or before the date specified in the certificate, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (2), the Controller may, on the application of the tenant made within one year of the specified date, order the landlord to place him in occupation of the premises or part thereof on the original terms and conditions; and on such order being made the landlord and any person who may be in occupation shall give vacant possession to the tenant of the premises or part thereof.

(4) Any landlord who, when the tenant has vacated by the date specified in the certificate, without reasonable excuse fails to commence the work of repairs and any landlord or other person in occupation of the premises who fails to comply with the order made by the Controller under

sub-section (3), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Recovery of possession for occupation and reconstruction, etc., and re-entry.

18. (1) Where any certificate has been granted by the Controller under clause (h) of sub-section (1) of section 15, or under clause (i) of sub-section (1) of section 15 on the ground that the premises are reasonably and *bona fide* required by the landlord for the erection of a new building or for the reconstruction of or addition to an existing building, and the premises are not occupied or the work of erection, reconstruction or addition is not commenced within a period of one month from the date the landlord recovers possession, or the premises are re-let within one year of the said date to any person other than the original tenant, the Controller may, on the application of the original tenant made within thirteen months of such date, order the landlord to place him in occupation of the premises on the original terms and conditions, and on such order being made, the landlord and any person who may be in occupation of the premises shall give vacant possession to the original tenant.

(2) Any landlord who recovers possession under clause (h) or (i) of sub-section (1) of section 15 and keeps the premises unoccupied or does not commence the work of erection, reconstruction or addition without reasonable excuse within the period of one month from the date he recovered possession and any landlord or other person in occupation of the premises who fails to comply with the order of the Controller under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Unlawful charges by landlord.

19. (1) If any landlord either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of the landlord receives any fine, premium or other like sum or any consideration, other than the standard rent or the permitted increases, in respect of the grant, renewal or continuance of a lease of any premises, or for giving his consent to the transfer of a lease by sub-lease or otherwise, such landlord or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or the value of the consideration received by him, and further where the offence is committed by a landlord in respect of premises which were of his ownership on the date of the offence such premises shall be liable to confiscation.

(2) Where any fine, premium or other like sum or any consideration referred to in sub-section (1) is paid by any

person, the amount or value thereof shall be recoverable by him from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, if such person is a tenant, without prejudice to any other remedy for recovery, be deducted by him from any rent payable by him to such landlord.

(3) Nothing in this section shall apply to any payment made under any agreement entered into before the first day of September 1940.

*Explanation.*—For the purposes of sub-section (1)—

(a) receipt of rent in advance for more than three months in respect of premises let for the purpose of residence, or

(b) where any furniture or other article is sold by the landlord to the tenant either before or after the creation of tenancy of any premises, the excess of the price received over the reasonable price of the furniture or article ;

shall be deemed to be a fine or premium or consideration.

20. (1) It shall not be lawful for the tenant or any person acting or purporting to act on behalf of the tenant to claim or receive any sum or any consideration as a condition of the relinquishment of his tenancy of any premises. Unlawful charges by tenant.

(2) Any tenant who in contravention of the provisions of sub-section (1) receives any sum or consideration shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the sum or the value of the consideration received by him.

21. Any amount paid on account of rent after the date of the coming into operation of this Act shall, except in so far as payment thereof is in accordance with the provisions of this Act, be recoverable by the tenant from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, without prejudice to any other remedy for recovery, be deducted by such tenant from any rent payable by him to such landlord. Recovery of amounts paid not in accordance with Act.

22. (1) Every landlord shall, on being so requested in writing by a tenant, furnish to such tenant within one month of the request a statement giving full particulars of the amount of standard rent of the premises or part thereof let to such tenant and of the permitted increases. Landlord to furnish particulars of rent, etc., to tenant.

(2) Any landlord who fails to furnish such statement or any landlord or his agent who intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

Tenant who has transferred or sub-let tenancy before this Act to furnish particulars.

23. (1) Every tenant who, before the date of the coming into operation of this Act, has sub-let or transferred, without the consent of the landlord, the whole or any part of the premises let to him shall furnish to the landlord, within one month of a request in writing made therefor by the landlord, a statement in writing signed by him giving full particulars of such sub-letting or transfer including the rent charged by him.

(2) Any tenant who fails to furnish such statement or intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

Landlord's duty to keep premises in good repair.

24. (1) Notwithstanding anything contained in any law for the time being in force and in the absence of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair.

(2) If the landlord neglects to make within a reasonable time after notice any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord :

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

Conversion of residential into non-residential premises prohibited.

25. (1) A landlord shall not without permission in writing given by the Controller use or permit to be used for a non-residential purpose any premises which on the date of the coming into operation of this Act were used for a residential purpose.

(2) A landlord who has obtained under clause (i) of sub-section (1) of section 15 a certificate that the premises are reasonably and *bona fide* required for the reconstruction of or for addition to an existing building shall not without permission in writing given by the Controller reconstruct or add to the building in such manner as to convert residential premises into non-residential premises.

(3) Any landlord who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

## PART III.

*Hotels and Lodging Houses.*

26. (1) The Controller may fix a fair rate to be charged for board, lodging or other service provided in a hotel or lodging house at such amount as, having regard to the circumstances of the case, he deems just.

Fixation of  
fair rates  
and number  
of lodgers.

(2) The Controller may fix a fair rate separately for—

(i) lodging with reference to the nature of the accommodation and the number of lodgers to be accommodated;

(ii) board, partial or full;

(iii) other service.

(3) The Controller may fix fair rates separately for daily and monthly lodgers.

(4) The Controller shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel or lodging house.

27. The Controller may, from time to time, revise the fair rates or the number of lodgers fixed under section 26.

Revision of  
fair rates  
and number  
of lodgers.

Bom.  
VII  
of  
1944.

28. Fair rates fixed under the Bombay Hotels and Lodging Houses Control Order, 1942, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and which were in force immediately before the coming into operation of this Part shall be deemed to have been fixed under this Part, and the provisions of this Part shall apply in respect of such rates.

Continuance  
of fair  
rates before  
coming  
into  
operation  
of this  
Part.

29. Where under section 26 or section 27 the Controller has fixed or revised the fair rate or the number of lodgers he shall direct the manager of the hotel or the owner of the lodging house, as the case may be, to display a notice of the fair rate, the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel or lodging house and also in the room or accommodation in respect of which the fair rate and the number of lodgers are fixed or revised.

Notice of  
fair rate  
and number  
of lodgers  
to be  
displayed.

30. (1) Notwithstanding any agreement to the contrary, no manager of a hotel or owner of a lodging house shall charge any amount in excess of the fair rate.

Charges not  
recoverable  
in excess of  
fair rate.

(2) When the Controller has fixed the fair rate any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate.

(3) Any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of payment from the manager of the hotel or the owner of the lodging house or his legal representative, and may, without prejudice to any other remedy for recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

No ejectment ordinarily to be made if fair rate paid.

31. No manager of a hotel or owner of a lodging house shall evict or refuse board or other service to a lodger so long as he pays, or is ready and willing to pay, the fair rate and observes and performs the other conditions of his agreement in so far as they are consistent with the provisions of this Act.

When manager of a hotel or owner of lodging house may recover possession.

32. Notwithstanding anything contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying that—

(a) the lodger has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring lodger; or

(b) the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or for any other cause which may be deemed satisfactory by the Controller.

Penalties.

33. (1) If any manager of a hotel or owner of a lodging house either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of a manager of a hotel or owner of a lodging house receives any fine, premium or other like sum

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or any consideration other than the fair rate, in respect of the grant or continuance of accommodation in the hotel or lodging house, such manager, owner or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or the value of the consideration received by him.

(2) Any manager of a hotel or owner of a lodging house who charges any amount in excess of the fair rate in contravention of section 30 shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine, or with both.

(3) Any manager of a hotel or owner of a lodging house who accommodates lodgers or permits lodgers to be accommodated in a room or specified accommodation in excess of the number fixed by the Controller shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(4) Any manager of a hotel or owner of a lodging house who fails to display a notice in contravention of the Controller's direction under section 29 shall, on conviction, be punishable with fine which may extend to five hundred rupees.

#### PART IV.

##### *Miscellaneous.*

34. (1) No order under this Act shall be made by the Controller except after holding an inquiry. Provisions relating to inquiries.

(2) Every such inquiry shall be made summarily in the prescribed manner.

(3) For the purposes of holding an inquiry under subsection (1) the Controller shall have the same powers as are vested in Civil Courts in respect of—

- (a) proof of facts by affidavits,
- (b) summoning and enforcing the attendance of any person and examining him on oath,
- (c) compelling the production of documents, and
- (d) issuing commissions for the examination of witnesses.

(4) The Controller may himself enter or authorize any person subordinate to him to enter upon any premises, hotel or lodging house or any part thereof to which the inquiry relates.

Compensation in respect of applications which are not *bona fide*, or are false, frivolous or vexatious.

35. If the Controller finds that any application made to him is not made *bona fide* or is false, frivolous or vexatious, he may, after hearing the applicant and for reasons to be recorded, order that compensation not exceeding one thousand rupees be paid by such applicant to his opponent.

Execution of Controller's orders.

36. An order made by the Controller under sub-section (3) of section 17 or under sub-section (1) of section 18 or under section 35 shall be executed in—

(a) Greater Bombay by the Chief Judge of the Court of Small Causes, Bombay, and

(b) elsewhere by the Civil Judge (Senior Division) or Civil Judge (Junior Division), as the case may be, having ordinary jurisdiction over the area in which the premises are situated,

as if it were a decree passed by him.

Appeal.

37. (1) An appeal shall lie from an order passed by the Controller under the provisions of this Act (including an order granting or refusing a certificate under section 15 or section 32) within fifteen days from the date of communication of the order, to the Court of Small Causes, Bombay, in the case of premises, hotels, or lodging houses situate in Greater Bombay, and to the District Court in the case of premises, hotels or lodging houses situate elsewhere.

(2) The Court hearing the appeal shall then call for the record of the Controller and, after hearing the parties, examining the record and making such inquiry as it thinks fit itself or through the Controller, shall decide the appeal.

(3) The decision of the Court and subject only to any such decision, the order of the Controller shall for the purposes of this Act be final, and shall not be liable to be called in question in any Court of law whether in a suit or other proceeding or by way of appeal or revision.

Controller to be deemed public servant.

38. A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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of  
1860

All proceedings under this Act to be judicial proceedings.

39. All proceedings under this Act before a Controller shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code.

XL  
of  
1860

Protection of action taken under this Act.

40. No suit, prosecution or other legal proceeding shall lie against a Controller in respect of anything in good faith done or intended to be done under this Act.

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41. (1) Offences under sections 17, 18, 19, 20 and 25, and sub-sections (1) and (2) of section 33 shall be cognizable and shall be triable in Greater Bombay by a Presidency Magistrate and by a Magistrate of the First Class elsewhere. Certain offences to be cognizable.

V of  
1898.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a magistrate trying offences under this Act to pass sentences of fine or to award any punishment under this Act in excess of his powers.

42. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence. Offence by companies, etc.

XV of  
1882

43. No distress warrant shall be issued under Chapter VIII of the Presidency Small Cause Courts Act, 1882— In City of Bombay distress warrants barred.

(a) for any rent which under the provisions of this Act it is not lawful to recover, or

(b) unless the person applying for a warrant under the said Chapter of the said Act shall when making his application for the same swear or affirm that the recovery of any part of the rent in respect of which the warrant is applied for is in accordance with the provisions of this Act.

44. (1) The Provincial Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act. Rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

(i) the manner in which rent recoverable according to any calendar other than the British calendar before the coming into operation of this Act shall be calculated and charged in terms of the British calendar under sub-section (2) of section 12 ;

(ii) the manner in which inquiries shall be made summarily under sub-section (2) of section 34.

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XVI  
of  
1939.  
Bom.  
VII  
of  
1944.

45. (1) The Bombay Rent Restriction Act, 1939, is hereby repealed.

(2) The Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, is hereby repealed :

Provided that—

(a) all certificates granted and orders made or directions given by the Controllers appointed under the

repealed Act shall be deemed to be granted, made or given under this Act;

(b) all proceedings pending before the Controllers under the repealed Act shall be transferred to and continued before the Controllers appointed under this Act as if they were proceedings instituted before Controllers under this Act;

(c) all appeals pending before any authority under the repealed Act shall be transferred to, continued before and disposed of by the courts hearing appeals under this Act as if they were appeals under this Act; and

(d) all appeals against orders of the Controllers appointed under the repealed Act, which would have lain under that Act, shall be deemed to be appeals from orders made by the Controllers under this Act and shall be presented to the courts hearing appeals under this Act and shall be disposed of accordingly.

#### SCHEDULE I.

[See section 2 (2)]

- |                                                        |                                                          |
|--------------------------------------------------------|----------------------------------------------------------|
| (i) The City of Bombay.                                | (21) Asarva Village.                                     |
| (ii) The Bombay Suburban District.                     | (22) Revenue Survey Nos. 1077 to 1140 of Naroda Village. |
| (iii) The Thana District.                              | (23) Sahijpur Bogha Village.                             |
| (iv) The Nasik District.                               | (24) Dariapur-Kajipur Village.                           |
|                                                        | (25) Hansol Village.                                     |
|                                                        | (26) Acher Village..                                     |
| (v) (a) <i>Ahmedabad District</i> —                    | (b) <i>Kaira District</i> —                              |
| (1) Ahmedabad Municipal Borough.                       | (1) Anand Municipal District.                            |
| (2) Ahmedabad Cantonment.                              | (2) Borsad Municipal District.                           |
| (3) Kochrab Village.                                   | (3) Mehmedabad Municipal District.                       |
| (4) Paldi Village.                                     | (4) Kapadwanj Municipal District.                        |
| (5) Madalpur Village.                                  | (5) Umreth Municipal District.                           |
| (6) Changispur Village.                                | (6) Dakore Municipal District.                           |
| (7) Shekhpur-Khanpur Village.                          | (7) Kaira Municipal District.                            |
| (8) Vasna-Maktampur Village.                           | (8) Nadiad Municipal District.                           |
| (9) Vadaj Village.                                     | (9) Matar Village.                                       |
| (10) Usmanpur Village.                                 | (10) Thasra Village..                                    |
| (11) Ranip Village.                                    | (c) <i>Broach District</i> —                             |
| (12) Survey Nos. 149, 150 and 151 of Memnagar Village. | (1) Broach Municipal Borough.                            |
| (13) Baherampur Village.                               | (2) Ankleshwar Municipal District.                       |
| (14) Ranip-Hirpur Village.                             | (3) Jambusar Municipal District.                         |
| (15) Dani Limda Village.                               |                                                          |
| (16) Gomtipur Village.                                 | (d) <i>Panch Mahals District</i> —                       |
| (17) Khokra-Mahmedabad Village.                        | (1) Dohad Municipal District.                            |
| (18) Amraivali Village.                                | (2) Godhra Municipal Borough.                            |
| (19) Rakhial Village.                                  | (3) Jhalod Village.                                      |
| (20) Saraspur Village.                                 |                                                          |

## SCHEDULE I—contd.,

(d) *Panch Mahals District*—

- (4) Halol Village.
- (5) Kalol Village.
- (6) Derol Village.
- (7) Vejalpore Village.

(e) *Surat District*—

- (1) Surat Municipal Borough.
- (2) Bulsar Municipal District.
- (3) Rander Municipal District.
- (4) Jalalpore Village.
- (5) Mandvi Village.
- (6) Pardol Village.

(f) *Ahmednagar District*—

- (1) Ahmednagar Municipal Borough.
- (2) Ahmednagar Cantonment.
- (3) Sangamner Municipal District.
- (4) Kopergaon Municipal District.
- (5) Shrirampur Municipal District.
- (6) Akola Village.
- (7) Rahuri Budruk Village.
- (8) Newasa Budruk Village.
- (9) Shevgaon Village.
- (10) Shrigonda Village.
- (11) Pathardi Village.
- (12) Karjat Village.
- (13) Jamkhed Village.
- (14) Parner Village.
- (15) Belapur Budruk Village.
- (16) Newasa Khurd Village.
- (17) The Revenue Village of Rahuri. Khurd.
- (18) The Revenue Village of Velapur. Khurd.

(g) *East Khandesh District*—

- (1) Jalgaon Municipal Borough.
- (2) Bhusaval Municipal Borough.
- (3) Amalner Municipal Borough.
- (4) Chalisgaon Municipal Borough.
- (5) Pachora Municipal District.
- (6) Chopda Municipal District.
- (7) Yawal Municipal District.
- (8) Raver Municipal District.
- (9) Savda Municipal District.
- (10) Faizpur Municipal District.

(h) *West Khandesh District*—

- (1) Nandurbar Municipal District.
- (2) Dhulia Municipal Borough.

(i) *Poona District*—

- (1) Lonavla Municipal Borough.
- (2) Poona City Municipal Borough.
- (3) Poona Suburban Municipal Borough.
- (4) Poona Cantonment.
- (5) Aundh Road area which is under the jurisdiction of the Bapodi Gram Panchayat near Kirkee.
- (6) The Village of Dapodi, Haveli Taluka.
- (7) Baramati Municipal District.

(j) *Satara District*—

- (1) Satara City Municipal Borough.
- (2) Satara Suburban Municipal District.
- (3) Karad Municipal Borough.
- (4) Wai Municipal District.
- (5) Panchgani Municipal District.
- (6) Mahableshwar Municipal District.
- (7) Tasgaon Municipal District.

(k) *Sholapur District*—

- (1) Sholapur Municipal Borough.
- (2) Barsi Municipal Borough.
- (3) Pandharpur Municipal Borough.
- (4) Karmala Municipal District.
- (5) Sangola Municipal District.
- (6) Madha Village.
- (7) Mohol Village.
- (8) Malsiras Village.
- (9) Kurduwadi Village.
- (10) Tembhurni Village.
- (11) Akluj Village.
- (12) Vairag Village.

(l) *Belgaum District*—

- (1) Belgaum Municipal Borough.
- (2) Belgaum Cantonment.
- (3) Nipani Municipal Borough.
- (4) Athni Municipal District.
- (5) Gokak Municipal District.
- (6) Saundatti-Yellama Municipal District.
- (7) Bailhongal Municipal District.

SCHEDULE I—*contd.*(m) *Bijapur District—*

- (1) Bijapur Municipal Borough.
- (2) Bagalkot Municipal District.

(n) *Dharwar District—*

- (1) Dharwar Municipal Borough.
- (2) Hubli Municipal Borough.
- (3) Gadag-Betgeri Municipal Borough.
- (4) Haveri Municipal District.
- (5) Ranabennur Municipal District.
- (6) Navalgund Municipal District.
- (7) Nargund Municipal District.
- (8) Byadgi Municipal District.
- (9) Gudguddapur Municipal District.
- (10) Kalaghatgi-Bendigiri Village.
- (11) Karajgi-Chikmagdur Village.
- (12) Hangal Village.
- (13) Ron Village.
- (14) Mundargi Village.
- (15) The Revenue Village of Bankapur.
- (16) The Revenue Village of Kod.
- (17) Gajendragad Village.
- (18) Annigeri Village.
- (19) Hirekerur Village.
- (20) Shiggaon Village.

(o) *Kanara District—*

- (1) Karwar Municipal District.
- (2) Kumta Municipal District.
- (3) Gokak Municipal District.
- (4) Bhatkal Municipal District.
- (5) Sirsi Municipal District.
- (6) Ankola Panchayat Group.
- (7) Siddapur Panchayat Group.

(p) *Kolaba District—*

- (1) Alibag Municipal District.
- (2) Mahad Municipal District.
- (3) Panvel Municipal District.
- (4) Pen Municipal District.
- (5) Roha-Ashtami Municipal District.
- (6) Uran Municipal District.
- (7) Karjat Village.

(q) *Ratnagiri District—*

- (1) Ratnagiri Municipal Borough.
- (2) Chiplun Municipal District.
- (3) Malwan Municipal District.
- (4) Vengurla Municipal District.

## SCHEDULE II.

[See section 2 (2)].

## (i) The City of Bombay.

(ii) *Ahmednagar District—*

- (1) Ahmednagar Municipal Borough.
- (2) Ahmednagar Cantonment.
- (3) Sangamner Municipal District.
- (4) Kopargaon Municipal District.
- (5) Shrirampur Municipal District.
- (6) Akola Village.
- (7) Rahuri Budruk Village.
- (8) Newasa Village.
- (9) Shevgaon Village.
- (10) Shrigonda Village.
- (11) Pathardi Village.
- (12) Karjat Village.
- (13) Jamkhed Village.
- (14) Parner Village.
- (15) Belapur Budruk Village.
- (16) Newasa Khurd Village.
- (17) The revenue Village of Rahuri Khurd.
- (18) The revenue Village of Belapur Khurd.

(iii) *East Khandesh District—*

- (1) Jalgaon Municipal Borough.
- (2) Bhusaval Municipal Borough.
- (3) Amalner Municipal Borough.
- (4) Chalisgaon Municipal Borough.
- (5) Pachora Municipal District.
- (6) Chopda Municipal District.
- (7) Yawal Municipal District.
- (8) Raver Municipal District.
- (9) Savda Municipal District.
- (10) Faizpur Municipal District.

(iv) *West Khandesh District—*

- (1) Dhulia Municipal Borough.
- (2) Nandurbar Municipal District.

(v) *Poona District—*

- (1) Poona City Municipal Borough.
- (2) Poona Suburban Municipal Borough.
- (3) Poona Cantonment.
- (4) Kirkee Cantonment.
- (5) Lonavla Municipal Borough, including the Khandala area.
- (6) Dhond Municipal District.

## STATEMENT OF OBJECTS AND REASONS.

Control over rents of residential and other accommodation is at present exercised in varying degrees in several parts of the Province of Bombay under the Bombay Rent Restriction Act, 1939, and the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944. The former Act, the principal object of which is to prevent an increase in rents of premises with a rental not exceeding Rs. 80 per mensem in areas in which the urban immovable property tax was imposed by Government in 1939, has been continued from year to year and, in the ordinary course, will lapse on the 31st March 1948. The latter Act, which was intended to check an inflationary rise in rents and hotel and lodging house rates in areas in which, owing to war conditions, there was an acute scarcity of accommodation, will lapse

April 1948 unless re-enacted before then. The conditions which led to the enactment of these measures continue in an even more aggravated form and it is, therefore, essential that effective control should be continued until sufficient progress has been made with building operations to provide adequate and suitable accommodation for the largely increased populations of the areas concerned. L. A. Bill No. XVII of 1947 was accordingly introduced in the Bombay Legislative Assembly in February 1947, with the object of consolidating and continuing the provisions of the two Acts so far as control over the rental and letting of residential and other premises were concerned, provision for control over hotel rates and lodging house rates being left to be governed by Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, which it was intended should only continue in force till it lapsed. As it has been found desirable to make several alterations in the provisions of the Bill as introduced in the Bombay Legislative Assembly and as it is also necessary to make provision for continuing control over hotel rates and lodging house rates beyond April 1948, it has been decided to introduce a revised and self-contained Bill covering control over rents of residential and other premises as well as over hotel and lodging house rates:

2. The main features of the Bill are briefly indicated in the following paragraphs :—

(a) Provision is made for continuing control over rents or hotel or lodging house rates, as the case may be, in all areas in which control is exercised at present and power is taken to extend control to new areas or to withdraw control from areas in which it is being exercised as occasion arises. Provision is also made enabling the application of control in new areas in a restricted form to premises used for specified purposes, such as education, or to premises with a standard rent below a specified limit where more extensive control is considered unnecessary. An important feature of the Bill is that it makes the extent of control over rents uniform throughout the areas in which control is at present exercised in varying degrees.

(b) Provision has been made for the appointment of Controllers with judicial experience and for appeals from orders passed by Controllers to the Court of Small Causes, Bombay, in Greater Bombay and the District Court elsewhere, instead of the Collectors.

(c) The recovery of rent according to the British calendar has been made compulsory.

(d) Precise provision has been made for protecting the interests of the tenant in cases of dispute regarding the amount payable as rent.

(e) Precise provisions have been laid down governing the grant of certificates entitling landlords to recover possession of premises or to evict tenants, in place of the rather wide discretion left to the Courts or the Controllers under the existing Acts.

(f) At present under the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, a tenant can sublet the premises without the landlord's consent. Provision has now been made to prevent such sub-letting hereafter, protecting at the same time sub-tenancies entered into previously.

(g) In order to check the exploitation by a tenant of the protection given to him, provision is made for penalising him for demanding any consideration as a condition of giving up a tenancy. A tenant who charges excessive rent to a sub-tenant or takes a premium or other consideration is also made liable to eviction without affecting the right of the sub-tenant, who is in possession of the portion sub-let to him.

(h) An obligation is imposed on the landlord to keep premises in good and tenantable repair.

(i) As the existing penal provisions in regard to the taking of premia by landlords are capable of evasion, they have been suitably widened to cover the taking of premia in disguised forms. Courts are also required to impose a punishment of imprisonment as well as fine equal to the premium or consideration received and are empowered to order in addition confiscation of the premises in respect of which an offence is committed.

(j) In order to ensure that residential premises are not diverted to non-residential use, provision is made for penalising such conversion without the Controller's permission.

(k) At present a Controller has power to fix fair rates for hotels and lodging houses only when he considers the existing rates to be excessive, having regard to the rates prevailing on 1st September 1940 and the increase in the cost of living till he fixes them. He has, however, no power to revise them if there is a subsequent change in the circumstances, such as a rise or fall in prices, etc. Provision is accordingly made to give wider latitude to the Controller in fixing fair rates and to empower him to revise them from time to time.

(l) A penalty of imprisonment and fine has been imposed for receiving premia, fines or other consideration for the grant or continuation of accommodation in a hotel or lodging house.

(Signed) D. N. DESAI.

Dated 30th September 1957.

By order of the Governor of Bombay,

P. M. LAD,

Secretary to the Government of Bombay,  
Legal Department.

Poona, dated the 30th September 1947.

**L. A. BILL NO. LIII OF 1947 (A BILL TO AMEND AND CONSOLIDATE THE LAW RELATING TO THE CONTROL OF RENTS AND REPAIRS OF CERTAIN PREMISES OF RATES OF HOTELS AND LODGING HOUSES AND OF EVICTIONS).**

*Question again proposed "That the Bill be read a first time."*

Mr. CHANDULAL P. PARIKH (Ahmedabad Millowner's Association): Mr. Speaker, Sir, I was yesterday discussing clause 10 of the Bill and I explained to the House that when 6% return is allowed to a landlord on the money expended by him over improvements and structural alterations, the nett, or the tax-free return, to him will be only 2½%. Even though the Hon. Minister in charge of

2.30 p.m. the Bill considers as adequate the return allowed in the Bill for the money invested on structural improvement of house property, I would draw his attention to the Housing Panel Committee Report in which it is estimated that for re-modelling the houses in Bombay a sum of Rs. 7½ crores is necessary. If such amenities as structural alterations in bath-rooms, additional lavatories, more windows and doors etc. are to be provided to tenants then this sum will be necessary. It will be in the interests of tenants themselves if they persuade themselves to pay a little more rent to enable landlords to carry out such improvements to their property. But if, as has been proposed in the Bill, only a 2½ per cent. tax-free return is to be allowed, then the landlord would not undertake such structural alterations, which, according to the Report, are necessary for the welfare of tenants and for good enjoyment of their life. If the tenant is not to pay a little more towards meeting this expenditure, then these desirable alterations in the property, where he spends more than twelve hours of the day, will not be carried out. With these remarks, I would leave it to the Hon. Minister to consider whether a little more increase than 6% cent. should be allowed or not.

Then, Sir, I agree with the Hon. Minister as regards the need for the provisions contained in clause 24 which make it obligatory on a landlord to keep the premises in good and tenantable repair. I would like the

[ Mr. Chandulal P. Parikh ]

provisions to be enforced with all possible rigour. I am afraid that the words "in good and tenantable repair" may result in disputes between the landlord and his tenant. To obviate this, we could adopt the recommendations in the Housing Panel Committee's Report, where certain repairs are made obligatory on the landlord. For example, white-washing of the kitchens and water closets annually, oil painting of the wood-work every six or seven years, renewal of electric installation every twelve or fifteen years, and minor repairs like plumbing and sanitary work at once in a period of 24 hours. If these repairs are enjoined on the landlord by incorporating the necessary provision in the clause, it would result in doing a great good to the tenants. When I say all this, it is not difficult to see whose cause I am pleading. I am not unaware, too, that whatever I may say may be construed as promoting the cause of landlords. That is why I say that this provision of defining "in good and tenantable repair" with the clarification suggested by me, should be rigorously enforced.

In order to lessen the period of rent control as much as possible, I would like to bring it to the notice of the Hon. Minister that enormous speculation is going on in land in the city area and this has pushed up the price of land to dizzy heights. The landowners do not want to build structures on the land because they are only trading in it. In order to put a stop to this, I would request the Hon. Minister to compel such landowners in the city limits to build structures on their land within a specified period. If they fail to do that, heavy taxation should be imposed on them so that they either erect a building on their land, or sell it to others who wish to build on it. The land would cease to be a paying proposition since heavy taxation will have to be paid for non-erection of building thereon. Compelling construction of a certain percentage of area on open sites in the city, and inflicting heavy taxation on those who fail to do it, is the only way of putting a stop to the enormous speculation in land. The owner of the land may be given the alternative of selling the land to somebody else who wishes to build on it, if he does not want to erect any building of his own thereon. Land should be made available for building purposes, and should not be allowed to be traded in. I have made this suggestion for the benefit of the State, regardless of whether it results in benefit to the landlords or to the tenants.

Then, Sir, I would like to say a few words about the location of new industries. Government should see to it that industries to be newly started are so located that it does not lead to a congestion in one area in the Province unless it is inevitable to do so having due regard to the availability of raw materials etc. It would not be desirable to allow many more industries to spring up in an already congested area like the city of Bombay.

Now, I come to clause 15. Under this clause, the right to recover possession of the rented property has been given to the landlord on certain specified grounds. In this clause, sub-clause (h) was much resented by the hon. Member Mr. Dange. It would appear that he has criticised the

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provision without taking into consideration the provision contained in sub-clause (2) of the clause. It clearly lays down that ejectment should be allowed after considering whether or not greater hardship would be caused by granting the certificate than by refusing it. This clause enables a landlord to get back his property only if it is required for reasonable and *bona fide* use either by himself or by his son or daughter over 21 years of age or by his father or mother or by any other person for whom under his personal law he is under a legal obligation to provide a residence. I admit that it is a good provision, but we have to look to both sides of the picture. In order to promote building activity, landlords should be provided with this facility. There is also the consideration that tenants should not be thrown on the street for want of accommodation when ejected by the landlord. I would, therefore, suggest that the right of re-letting tenements once they fall vacant should vest in the Government. This to my mind, would solve the problem of accommodation for those tenants who may have to be provided for if the landlord requires possession. The right given to the landlord to get back his property under conditions specified in clause 15 would not then inflict hardship on anyone. There must be some encouragement to building activity. A landlord's family naturally grows with years, and he will require more and more accommodation. It is common knowledge that in these days sons and daughters do not live together, and, therefore, it is but meet that the landlord should be given the right to get back his property for the use of his son and daughter.

It should be stipulated by Government that whenever premises fall vacant, they will be re-let by Government to whomsoever they deem fit. There are other people also who require accommodation. At present, the productive capacity in the Bombay Province is on the increase from year to year. There are Government officers who are to be provided accommodation. There are also those who are dealing either in agricultural or industrial production or in the Central Government service who must be provided accommodation by Government and this can be done only by Government reserving the right of letting the premises to whomsoever they think best.

It will be seen, Sir, that in the city of Bombay alone the population has increased from 16 lakhs to 27 lakhs. The population from rural areas is slowly moving to the city every year owing to the amenities which the city is providing. It will also be found that, in the matter of trade, there are a number of people who are employed as middlemen, in the capacity of distributors and so on. For example, between Colaba and Mahim there are about 10,000 shops. If the system of distribution is well organised and big consumer's stores are built on co-operative basis even 1,000 shops will be adequate to cater for the needs of the

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people. If the system is well organised, even one-tenth of the number of people who are at present doing the distribution work will be enough. Moreover, even ladies can be appointed to do this sort of work. This may considerably relieve congestion.

The Hon. the Finance Minister has already brought in a Bill on forward trading. If a list is prepared showing the number of people engaged in this trade in the city of Bombay, it will be found that the number is very great. I feel that if a regular check is put on the occupation of premises by such people, there will be definitely more accommodation available to those who are doing the work of Government or other important productive work.

I now come, Sir, to clause 7. This clause relates to restriction of rent on premises let for residence, education, business, trade, storage or for any other purpose. A restriction is put on the increase of rents of premises let for business, trade or storage. Tenants who come under these categories have sometimes an income of Rs. 5 to Rs. 10 lakhs, and I do not understand why they require any protection so far as rent is concerned. My own feeling is that they should be required to pay more rent. My suggestion, therefore, is that they should be made to pay more rent on a graduated scale, say, 10 to 50 per cent. more on the rent of the premises. Out of this increased rent, 75 per cent. should go to Government, and the remaining 25 per cent. to the landlord. A fund from this receipt will thus be created, which could be utilised by Government for providing more houses and thereby providing more accommodation to those people who are in dire need of it. I hope, Sir, that this suggestion of mine will receive the earnest consideration of the Hon. the Minister who has piloted the Bill.

Now, Sir, clause 2 is applicable alike to cities, towns and villages. If a reference is made to Schedule I, it will be found that it includes so many small towns and villages. I know of villages like Matar in Kaira District, as also of other villages in Ahmedabad District, which have a population of about 5,000 to 10,000. In these places buildings are let out for a nominal rent to save from dilapidation owing to disuse. The rent which the landlord charged before 1939 or 1940 may be very low and it will not have any relation to the cost of the building. As we are now not allowing a landlord to increase the rent on such village buildings, I would like to make a humble suggestion to the Hon. the Minister to value these buildings at the price ruling in 1939 and give the landlords concerned  $4\frac{1}{2}$  per cent. by way of rent by permitting such increase as may be necessary. My plea is that everybody must have due justice. A landlord must not be converted into a tenant and a tenant into a landlord. If this Act is to continue for some years—and it will so continue if proper measures are not taken in time—the

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properties of landlords will become virtually properties of the tenants who will pay only controlled uneconomic rents. Taking into consideration the cost of living index figure of 167 before the war and the present high figure of 286, it is but fair that a landlord should get  $4\frac{1}{2}$  per cent. tax-free return on his investment in land before 1939.

Then, Sir, under clause 15 it is laid down that a landlord shall have no right to take vacant possession of a building which is purchased after 1st January 1947. This is a very noble provision. Perhaps it has been brought in owing to so many people coming to Bombay from the Punjab and seeking accommodation. The Hon. the Minister who has moved this Bill ought, however, to have made a distinction in this respect that, if one has been a resident of Bombay since 1939 and he chooses to buy a building today, he should be given vacant possession of it. If this is not done, then ownership of a building will be reduced to a mockery. The result of such provisions will be, as I have already said before, that the tenants will be converted into landlords and landlords into tenants.

It does not matter to me in what final form this Bill is put through. Looking to the magnitude of the housing problem, I would request the Hon. Minister who has piloted the Bill to refer to the Housing Panel records. It will be found that, in the City of Bombay alone, additional tenements to the tune of Rs. 100 crores are required to be erected if suitable accommodation is to be found for the people. If we take the cases of Ahmedabad, Poona and other cities, the amount will run into a further fifty more crores. So, Rs. 150 crores must be spent either by people or Government, if we want to provide housing accommodation to the people.

Sir, the hon. Member Mr. Dange is unfortunately not here; but he said that private enterprise should practically be killed. I do not mind if private enterprise is killed, and the sooner it is killed, the better. But when you eliminate private enterprise, you must substitute in its place either State enterprise or some other enterprise.

The Hon. the SPEAKER: The hon. Member must know that he should not use the word "you", as he is supposed to address the Chair.

Mr. CHANDULAL P. PARIKH: Now, Sir, the Government has an enormous obligation to discharge. The items mentioned for the expenditure of 93 crores in the budget for carrying out post-war schemes are not the only things to be done by Government. The activities connected with the defence of the country have to be looked into. We have also to develop our forests and mines to start

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the machinery industry, the locomotive industry etc. There are several other similar obligations to be attended to, so much so that the Government will be occupied with enormous activities for the next ten years.

I think that the hon. Member Mr. Dange has oftentimes made suggestions to the Hon. Ministers to nationalise industries. He advocated State-ownership of key industries. Why is the Government not going ahead with schemes of State-ownership? Why is it not progressing in the matter of starting anew industries or the development of industries which are essential for our defence and our very existence? I think that this Government is not unaware of it; but its hands are tied down for want of man-power and for want of materials. The hon. Member Mr. Dange said, "Stop private enterprise. Let the State start building activity. This is sheer nonsense.

Mr. R. A. KHEDGIKAR : Are the words, "Sheer non-sense" parliamentary?

The Hon. SPEAKER : Often it is very difficult to decide whether a particular word is parliamentary or unparliamentary. If a member uses a word in the heat of the argument, I will not say that he is using an unparliamentary word, though it may be objectionable.

Mr. CHANDULAL P. PARIKH : I would not have used that word, had it not been the aim of the hon. Member Mr. Dange to sabotage the good work that the present Ministry is carrying on. If the hon. Member Mr. Dange remains patient for ten years, he will be in a position to judge whether the Ministry has been able to achieve their object or not, but he will not have the patience to wait for ten years. He thinks that he will be able to do good to the masses by sabotaging the programme which the Ministry has already taken in hand. In this, he will have the support neither of this House nor of the outside public. He may, perhaps, be able to misguide the illiterate people by talking in this strain, and may take temporary advantage of their illiteracy for the advocacy of a régime after his own heart.

The Panel Committee estimated the necessity of an expenditure of 150 crores of rupees for building houses to be spread over a period of 20 years. The hon. Member Mr. Dange talked of man-slaughter by landlords. What about the man-slaughter which has been going on in the City of Bombay during the last few days owing to diminution in production to the extent of 20 million yards of cloth and loss of wages to workers to the extent of 40 lakhs of rupees? What else is it if it is not undoing the good work which the Ministry is doing?

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The Hon. Minister also said that he would advance money at the rate of 3% to those who want to build houses. I will say, in conclusion, that I won't enter into the financial aspect of this proposal. I want to point out to the Hon. Minister that I do not want to advocate the cause of landlords only. You can pursue whatever method you like. You can make them charge whatever rent you think best. You must chalk out, however, a building programme for every year, and try to carry it out. For instance, if you fix the target for Bombay to have fifty thousand new houses, you must try to approach that target by resort to stern measures. Of all human necessities, the first necessity is food, the second is cloth, and the third is a house.

I quite agree with the Hon. Minister for Agriculture when he says that it will take five years to put his programme into practice. It will take five years for agricultural development to take place and for the yield, in the matter of quality as well as quantity, to be adequate to supply the wants of this Province. I know that he is making stupendous efforts to increase the food resources.

With regard to cloth, a terrible bungling has been made by the past Government for the last four years both in the matter of production and distribution, and the present Finance Minister has formulated a policy which, when put into practice, will, I am sure, do away with cloth control in twelve months. He is making strenuous efforts to increase production of cloth by 20% which is so vital and necessary for our country, and when production increases, the control will automatically go away. Why is it that these controls and blackmarketing exist? It is because there is shortage of goods.

The problem of housing is different from the other two problems of food and clothing. Just as in the case of food and clothing, in the case of housing also stupendous efforts are also necessary to tackle the problem successfully. We can, if we apply our mind correctly, erect houses in as short a period as we like. During the war, the Government of India erected a large number of military camps for housing about twenty lakhs of people. They drew up a programme, and built the requisite number of houses in a period of two years. The Government of India built them as a war measure. In the same way, we must draw up a programme of housing, treat it as a war measure and complete it within a fixed period of five years. I think that, unless we take proper legislative and administrative measures the present state of affairs will

continue. I say, Sir, by all means you can prevent  
3-00 p.m. exploitation by the landlords [.....] as much as you

can, but if you want them to build houses.

"The Hon. the SPEAKER: I have already drawn the attention of the hon. Member to the convention that he should not use the word "You."

Mr. CHANDULAL P. PARIKH: I am sorry, Sir. If we want landlords to build more houses, they should be assured of  $4\frac{1}{2}$  per cent. tax-free return which they will be getting elsewhere. The present rate of interest for preference shares is  $4\frac{1}{2}$  per cent. tax-free return. When anybody is getting return on this basis in other ways, how can you compel him to invest in buildings for the rent which is contemplated by this Bill? Sir, the Hon. the Finance Minister is advancing loans at 3 per cent. interest. I ask him: "Why not advance at 1 per cent interest?" He is not advancing at 1 per cent., because in doing so he will be losing 2 per cent. In the same way, Sir, the landlord also will lose  $\frac{1}{2}$  per cent. if he is not given proper return for his investment, and he will employ his money in some other activity. If you really want houses to be built, you have to adopt practical methods in order that your object may be achieved as early as possible.

Unfortunately, while recommending these methods, I have to advocate some better regulations for fixing rents, if you want really to have more houses. I agree with the hon. Member Mr. Dange as the Hon. Minister too does, in regard to his proposal for reducing rents. But it is business, because at times property appreciates and at times it also depreciates. The interest of the landlords should not be the sole criterion for this measure. I think the primary responsibility of the Hon. Minister is to see how more houses can be built. He should make provision in this Bill to ensure more houses for the tenants. What will happen, Sir, if more houses are not built? These very tenants will jump upon him after six months and say: "You have made this measure and we remain short of houses". Sir, we know the mentality of the masses. They will say one thing at one time, and another thing at another time. I am advocating this cause in this House, because hon. Members of this House are intelligent. If they can make any constructive suggestion for building more houses, they will be quite welcome. I think that this problem should be solved thoroughly by contacting the various associations and those who can help in solving this problem. I do not mean that any particular method should be followed. You may consult those who wish to build and understand their difficulties, and then evolve a scheme which you think best. You have to devise a scheme from the point of view of emergency in order to see that this Rent Control Act may not exist for a number of years and that the housing problem is solved as early as possible.

Sir, I have been searching the whole Bill to find out a clause which deals with the fixing of rents of new buildings, and I find that perhaps clause 13 may apply with regard to the rents of new buildings. Under this clause the Controller will fix the rent of new buildings "having regard to the provisions of this Act and the circumstances of the case", which means at 6 per cent. interest as laid down for structural alterations. The construction of new buildings will cost 4 times the normal

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cost of buildings. The construction of a new building which used to cost Rs. 10,000 in 1939 will cost at present Rs. 50,000, which means five times the normal cost. At the end of five years when the Hon. Minister thinks that this Act should be repealed, the value of this new building would have depreciated by about 40 per cent. Now if a building is constructed at a cost of Rs. 100,000, after 4 or 5 years when the Act will be repealed, the price of the building would have come down to Rs. 60,000. This is the fear in the minds of the landlords. If Government can give a guarantee that it shall take over these buildings after 5 years when the Act will be repealed at the price at which they were built, I will have no objection. We shall build houses if the Hon. Minister will undertake to take them over and pay our costs when the Rent Control Act is repealed. We shall only take 4 per cent. interest. Unfortunately no such guarantee can be forthcoming from the Government. Who is then to bear this difference in price when deflation comes? This is a vital factor in the economics of house building.

Sir, I do not want that Government should be out of pocket in undertaking any housing scheme. As I have suggested yesterday, tenants paying a rent of over Rs. 80 per month should be charged a surcharge of 10 to 50 per cent. Out of this amount of surcharge Government will be able to subsidise those who want to build new houses.

Now, what are the recommendations of the Panel Committee? They have made some recommendations for encouraging building activity. They have suggested that landlords should be given loans at  $2\frac{1}{2}$  per cent. interest redeemable by instalments in a period of 60 years. The Committee have also suggested the grant of an initial subsidy to the extent of 30 per cent. of the costs. Sir, the cost of building has risen 5 times at present. I am not discussing that you should do this way or that way. I am only pointing out that the building activity has got to be expanded.

Coming to the property tax, Sir, I would say to Government: "Do not levy the property tax on new buildings so long as this Act remains on the statute book."

If the municipalities are unable to build a sufficient number of houses, then let them also give a rebate of half of the municipal taxes for new buildings.

Another practical suggestion is that Government and municipalities should build residential houses for their own employees. It should be obligatory on them.

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I am advocating these measures as a citizen of the Province and not as an industrialist, or a capitalist, or a landlord. My object is to see that more houses are built in the city. Sir, let us, as citizens of this province, in co-operation with the Government, build as many houses as possible to be let at economic rents and not at uneconomic rents. The Hon. Minister for Housing has discussed this problem for many months. If he wants anybody to lose, nobody will join the scheme. If he only wants that the masses should not be exploited, he can find out thousands and thousands of honest persons who will be prepared to carry out a good scheme. In this way, rent control which has been there for the last four years, can be abolished in about two years, because by that time sufficient houses will have been provided.

The Hon. Minister has said that he has asked the permission of the Government of India to requisition tenements in the Province of Bombay. He may take the tenements from some persons and give them to others. I am prepared to agree that in respect of premises falling vacant, Government should take away from the landlords the right of letting out, and Government should fix the priority for letting out to the needy. If it is contemplated that Government should have control of all vacant premises, I have no objection if the sanction of the Government of India is obtained for the same, if necessary.

The hon. Member Mr. Dange has pointed out the inability of certain persons to pay rent. Everybody in this House has sympathy for those who are unable to pay rent, and I agree with the recommendation of the Panel Committee which is as follows :

"Subsidies or concessional rent housing should be for those whose income is low and who are unable to afford the economic rent. Society should be asked to bear the burden of those who are unable to pay the economic rent, which it should be noted is lower than the market rent."

Therefore, I say that those who are unable to pay the economic rent should be given subsidies from a fund which the Hon. Minister might create. I do not think that that is impossible. In fact, I have suggested so many other methods of tackling this problem. Although food and clothing are not in this Government's jurisdiction, housing problem is within our complete jurisdiction, and it is capable of easy solution if proper legislative measures and administrative action are taken with all the strength, with all the perspective, with all the initiative and imagination.

Sir, I shall again appeal to the hon. Member Mr. Dange to join hands with Government in schemes for having more houses. I think, if he really wants to serve the people whom he represents, their interests will be better served if he joins hands with Government in this programme of constructing more houses, instead of going on lecturing

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to the people not to vacate the premises, although they are required legally to do so. If he advises the tenants to start co-operative societies, then he will find that many will respond to his advice. But I think that his ideology is misguided and impracticable. He is not following the right process, or putting forward any constructive view-point. He only wants to see that this Ministry may not be successful in achieving what they have at heart. That seems to be his only object. Therefore, the Ministry should neglect him and carry on their programme.

Sir, I would again appeal to the Hon. Minister to consult all the interests concerned and to see that this Bill is given a practical shape as early as possible. The sooner we are able to repeal the present Act the better for all concerned. The landlords will always co-operate with the Government in carrying out the Government's programme whether it is in their interest or not.

With these words, I give my wholehearted support to the Bill and request the Hon. Minister to consider all the suggestions that I have put forward.

Mr. G. D. VARTAK : Minister for Local Self-Government.  
सन्माननीय अध्यक्ष महाराज, ह्या सभागृहापुढें जें भाडें नियंत्रणाचें बिल आल्लें आहे त्या बिलावर कालपासून या सभागृहांत सहा सन्माननीय सभासदांनीं भाषणें केलेलीं आहेत. तीन भाषणें विरोधी पक्षाचे सभासदांनीं केलीं आणि तीन भाषणें सन्माननीय सभासद श्री. जोशी, श्री. चौधरी व श्री. चंदुलाल पारेख यांची झाली. या बिलावर बोलतांना विरोधी पक्षाचे सन्माननीय सभासद श्री. ए. एच्. मिर्झा यांनीं या बिलाचें स्वागत करून कांहीं सूचना सभागृहापुढें ठेवल्या आहेत. त्यानंतर सन्माननीय सभासद श्री. डांगे यांनीं, आपल्या नेहमींच्या समतावादी धोरणाचीं जाहिरात करण्यासाठीं, या बिलांत स्वागतार्ह कांहीं नाहीं असें भासवून बिलावर हल्ला चढवण्याचा कार्यक्रम काल पार पाडला आहे. सन्माननीय सभासद श्री. करंदीकर यांनीं आपली विचारसरणी सन्माननीय सभासद मि. डांगे यांचे विचारसरणीहून भिन्न आहे असा स्पष्ट खुलासा करून या बिलाला मी पाठिंब्या देण्याकरितां येथें उभा नाहीं व विरोध करण्याकरितांही उभा नाहीं आणि या दोन्ही गोष्टींपैकी कांहीही न करतां मी माझे विचार प्रदर्शित करतों असें सांगितलें. या दोन सन्माननीय सभासदांच्या विचारसरणींत मूलभूत फरक आहे ह्याची जाणीव ह्या सन्माननीय सभागृहाला आहे. परंतु कांहीं कांहीं वेळेला असें होतें कीं परस्परविरोधी असलेले (opposite) शुभग्रह आणि पापग्रह यांची युती होते. ही युती फार वेळ टिकून रहात नाहीं. दीर्घकाळ टिकली तर तिचे अनिष्ट परिणाम जगावर होतात. या ठिकाणीं, सन्माननीय

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सभासद श्री. करंदीकर आणि श्री. डांगे यांची विचारसरणी जरी भिन्न असली तरी या बिलाला पाठिंबा देण्याचे शब्द तोंडातून निघून नयेत या बाबतीत त्यांनी एकी केली आहे. कलम १५ मध्ये घरमालकाला आपल्या नातलगकरिता भाडे-कन्याकडून जागा खाली करवून घेण्याची जी तरतूद केली आहे तिच्या संबंधाने मार्श-मत सन्माननीय सभासद मि. डांगे यांचे प्रमाणे आहे असे श्री. करंदीकरांनी सांगितले. याबाबतीत सन्मान्य सभासद श्री. करंदीकर यांच्या नजरेस मला आणावयाचे आहे की ही जी युती झाली आहे ती थोडी गैरसमजुतीने झाली आहे. सेक्शन १५ (२) नीट पाहिल्यानंतर त्यांना कळून येईल की कांहीं कारणाकरिता घर मालकाला आपल्या विशिष्ट नातेवाईकांच्या सोयीकरिता घर रिकामे पाहिजे असेल तर, त्याबाबतीत या बिलात अशी स्पष्ट योजना करण्यांत आली आहे की घरमालकांच्या नुसत्या इच्छेवर हे अवलंबून राहणार नसून ती जागा घरमालकांच्या नातेवाईकांच्या सोयीकरिता खाली करून दिल्यास भाडेकरूची गैरसोय होणार नाही, याचा विचार रेंट कंट्रोलरने करावयाचा आहे. कलम १५ (२) मध्ये याचा स्पष्ट खुलासा करण्यांत आलेला आहे.

No certificate under clause (h) of sub-section (1) shall be granted if the Controller is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by granting the certificate than by refusing to grant it.

इतकी स्पष्ट तरतूद केली असतांना सुद्धां अमक्या एका नातलगकरिता जागा खाली करून घेतां येईल असा उल्लेख केल्यामुळे भाडेकरू वर्गावर जागा खाली करण्याचा प्रसंग ओढवला जाणार आहे अशी जी ओरड केली जात आहे ती गैर-समजाने करण्यांत येत आहे. सामान्यतः त्या ठिकाणीं हें गृहित धरलेलें आहे की घरमालक आणि भाडेकरू या दोघांनीं एकमेकांशी विचार विनिमय करूनच याचा निकाल लावावा. तो निकाल लागत नसेल तर त्याकरितां कंट्रोलरच्या मध्यस्थीची योजना केलेली आहे. कंट्रोलरला दोन्ही बाजूंच्या सोईचा विचार करून निकाल देतां याचा म्हणून कलम १५ (२) ची योजना करण्यांत आली आहे.

नामदार दिनकरराव देसाई यांनीं हें बिल मांडतांना सभागृहापुढें बिलांतील निरनिराळ्या कलमासंबंधानें चर्चा केलेली आहे आणि म्हणून आतां त्यासंबंधानें विशेष सांगावयाची कांहीं आवश्यकता आहे असें मला वाटत नाहीं. १९३९ व १९४४ च्या कायद्याप्रमाणें अंमलबजावणी करतांना भाडेकन्यांकडून आणि घरमालकांकडून ज्या निरनिराळ्या तक्रारी आल्या त्या लक्षांत

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घेऊनच, या बिलाची उभारणी करण्यांत आली आहे. घरमालक आणि भाडेकरू यांच्यामध्ये घराची स्वच्छता ठेवणे आणि रिपेअर्स याबाबतीत भांडणे होऊन ती विकोपास जातात, म्हणून या बाबतीत स्पष्ट योजना या बिलांत करण्यांत आलेली आहे. समाजाच्या स्वास्थ्याकरिता तातुरत्या अडचणी दूर करण्यासाठी तयार केलेले कोणतेही बिल परिपूर्ण नसते; म्हणून हे बिल परिपूर्ण आहे किंवा त्यांत काहीं दोष नाहीत हे सांगण्यासाठी मी उभा राहिलो नाही. परंतु या बिलावर बोलतांना सन्माननीय सभासद श्री. करंदीकर यांनी उद्गार काढले की हे बिल म्हणजे नुसती मलमाट्टी असून त्यामुळे काहीं विशेष परिणाम होणार नाही. घरभाड्याचे बाबतीत सप्लाय व डिमांड हे तत्त्व विसरून चालणार नाही. यावर त्यांना मी असे सांगू इच्छितो की नुसते सप्लाय आणि डिमांड या तत्वावर जनतेला सोडून व सरकारने बाजूला राहून आजच्या परिस्थितीत कायद्याने भाडे नियंत्रण न केल्यास सर्वत्र हाहाकार उडालेला आपणांला दिसेल. म्हणून आजच्या परिस्थितीत या बिलाची अत्यंत आवश्यकता आहे. सन १९४४ चा कायदा ३१ मार्च १९४८ ला संपत आहे व त्यापुढे नवीन कायदा केला नाही तर भाडे नियंत्रणाची कोणतीच व्यवस्था राहणार नाही. पूर्वीच्या कायद्यांत असलेल्या पळवाटा बंद करून, आणि विशेषतः या पळवाटांचा गैर फायदा घेण्याची प्रवृत्ति घरमालक आणि भाडेकरू यांमध्ये बळावत चालली होती ती लक्षांत घेऊन, हे बिल तयार करण्यांत आलेले आहे. या बिलाने रहात्या घरांचा प्रश्न सर्वस्वी सुटेल असे कोणीही म्हणत नाही व तसा या बिलाचा उद्देशही नाही. आज समाजामध्ये वाटेल त्या मार्गांनी जास्तीत जास्त पैसा मिळविण्याची जी प्रवृत्ति बळावलेली आहे तिला घरभाड्यापुरता आळा बसावा या हेतूने हे बिल आणलेले आहे. लढाईनंतर अनेक नियंत्रणे आली; अन्नधान्य, कपडा वगैरे वस्तूवर नियंत्रणे आली, त्याचबरोबर घरभाड्यावरही नियंत्रण घालणे आवश्यक झाले. आपणां सर्वांना माहित आहे की हे नियंत्रण घालीत असतांना भाडेकरूंचा जो मोठा वर्ग आहे त्याचे हाल होऊ नयेत याची खबरदारी घेण्यांत आली. पण भाडे नियंत्रण असतांनासुद्धा याबाबतीत अनेक मार्गांचा अवलंब करून पैसा मिळविण्याचे प्रयत्न काहीं लोकांकडून केले गेले. कोणत्याही एका विशिष्ट वर्गाला दोष देण्यासाठी मी हे बोलत नाही. मनुष्य-स्वभावांतच हा दोष आहे आणि त्या दोषाला आपल्या प्रांतातील घरमालक हे अपवाद ठरू शकत नाहीत.

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त्याबरोबरच आपण हीहि गोष्ट जाणतां कीं भाडेकरूमध्येहि असा एक वर्ग निर्माण झाला कीं त्यानें भाडे नियंत्रणाच्या कायद्याचा गैर-फायदा घेऊन, घरमालक आपणाला घराच्याबाहेर घालवूं शकत नाही ही कायदेशीर भूमिका लक्षांत घेऊन अनेक प्रकारांनीं अडचणी उपस्थित करण्याचा प्रयत्न केला. या बाबतींत सभागृहाला उदाहरण द्यावयाचें झालें तर तें असें कीं १०/१९ रूपांच्या भाड्याच्या जागेंत जेथें दोन माणसांपेक्षा जास्त माणसांना राहतां येणार नाही त्याठिकाणीं पोट-भाडेकरू म्हणून ९-७ माणसें ठेवून त्यांच्याकडून भाड्याच्या रूपानें अधिक पैसा मिळविण्याचा प्रयत्न केला गेला. अशीं पुष्कळ उदाहरणें देतां येतील. आरोग्याच्या दृष्टीनें अमूक एका जागेंत किती माणसांनीं राहिले याला कांहीं मर्यादा असते. पण ३/४ माणसें राहाण्याच्या जागेंत ८ ते १० माणसें कोंबळीं गेल्यामुळे व आरोग्याच्या दृष्टीने ज्या सोई त्या जागेंत पाहिजेत त्या नसल्यामुळे त्या लोकांच्या आरोग्यावर परिणाम झाला. याशिवाय, घरे नादुरुस्त स्थितींत पडून राहिलीं. मनुष्य-स्वभावांतील ह्या स्वार्थी प्रवृत्तीमुळे घरमालक आणि भाडेकरू या दोघांकडून प्रमाद घडले. यांतून मार्ग काढणें हें सरकारचें कर्तव्य होतें व या दृष्टीनें च या सर्व अडचणी आणि पूर्वींचे अनुभव लक्षांत घेऊन हें बिल तयार करण्यांत आलें आहे. या बिलाच्या बाबतींत व एरव्हीहि सन्माननीय सभासद श्री. डांगे यांची विचारसरणी वर्गविग्रहाची असल्यामुळे त्यांचें समाधान मला व्यक्तिशः तर करतां येणें शक्यच नाही, पण या सभागृहांतल्या दुसऱ्या कोणालाहि करतां येणार नाही. सन्माननीय सभासद श्री. डांगे यांनीं बिलावर हल्ला चालवितांना सांगितलें कीं घरमालक ही एक अशी संस्था आहे कीं या सर्व दोषांना ती जबाबदार आहे. घरमालकांच्या दोषांचे समर्थन करण्याकरितां मी उभा राहिलेला नसून सन्माननीय सभासद श्री. करंदीकर म्हणाले त्याप्रमाणें या दोषांत आपण सगळेच वांटेकरी आहोंत. मी वर वर्णन केलेला मनुष्यस्वभावच त्या दोषांना जबाबदार आहे असें मी समजतो. खाजगी मालमत्ता नष्ट करण्याशीं या बिलाचा कांहीं एक संबंध नाही. घरमालकावर दोषारोप करण्याचा श्री. डांगे यांनीं जो प्रयत्न केला त्याच्या बुडाशीं कम्युनिस्ट विचार-सरणी आहे. समाजाचो रचना त्यांना ज्या वर्गविग्रहाच्या पद्धतीनें काढावयाची आहे ती पद्धत आजचें सरकार स्वीकारण्यास तयार नाही हें त्यांनीं लक्षांत ठेवलें पाहिजे. समतावादाचा प्रचार करण्याची त्यांची जी एक रीत आहे व तिला अनुसरून त्यांनीं सभागृहांत ज्या गोष्टी रंगवून सांगितल्या त्यांचा परिणाम

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या सभागृहावर कांहीहि होणार नाही. आजच्या परिस्थितीत जरूर त्या समाजवादी तत्वाचा स्वीकार करून समाजामध्ये सुव्यवस्था राखली पाहिजे हें तत्त्व सरकारने मान्य केलेलें आहे. सन्माननीय सभासद श्री. करंदीकर यांनी काल सांगितल्याप्रमाणें खाजगी मिळकत किंवा मालमत्ता नष्ट करण्याची वर्गविग्रहाची विचारसरणी आपल्या देशांत फैलावूं नये अशी इच्छा असेल तर आजकालीन ठिकाणी जी संपत्ति स्थगित झालेली आहे तिचें विकेंद्रीकरण झालें पाहिजे.

श्री. करंदीकर यांनी दुसरी अशी विधायक सूचना केली की खेड्यांतील शेकांचा लोंढा जो सारखा शहराकडे येत आहे तो थांबविण्याचा प्रयत्न केला पाहिजे. मला त्यांना असें सांगायचाचें आहे की सरकारने या बाबतीत प्रगोदरच योजना आखलेल्या असून त्या जाहीरही केलेल्या आहेत. आणि या दृष्टीने सरकार आपलें पाऊल पुढें टाकीत आहे. परंतु या योजना कागदावरच आहेत अशी त्यांनी तक्रार केली आहे. मला त्यांना असें सुचवायचाचें आहे की योजना या प्रथमतः कागदावरच तयार करावयाच्या असतात. योजना अमलांत आणण्याकरितां मात्र कांही कालावधि लागणें अपारेहार्य होतें. अन्नधान्याच्या बाबतीत आपला प्रान्त तुटीचा आहे. मुंबई प्रांतांत या गोष्टीकडे दुर्लक्ष झालें. पाटाच्या पाण्याची व्यवस्था नसल्यामुळे या बाबतीत पावसावर अवलंबून राहवें लागतें. गेल्या दीडशें वर्षांत या प्रांतांत जरूर त्या गोष्टी न झाल्यामुळे आज त्याचे परिणाम आपणांस भोगावे लागत आहेत. आपण उतावीळ होऊन टाहो फोडला तरी योजना अंमलांत आणावयाला विशिष्ट कालावधि लागणार आहे.

खेड्यांत अन्नधान्याचें उत्पन्नांत वाढ होऊन इतर सुखसोयी खेड्यांतील जनतेला मिळाव्या आणि ती स्वयंपूर्ण व्हावी म्हणून सरकारचे प्रयत्न सुरू आहेत. इतकेंच नव्हे तर परवां जो प्रामपंचायतीचा कायदा या सभागृहांत मंजूर करण्यांत आला त्यावर बोलतांना सन्माननीय सभासद श्री. करंदीकर यांनी या दृष्टीने या सरकारचें पाऊल बरोबर पडत आहे अशी कबुली दिली ; मग त्यांना आतां अशी शंका कां बाटावी की अशा तऱ्हेचे प्रयत्न सुरू नाहीत? योजना आखल्याबरोबर तिचें फळ ताबडतोब मिळणें शक्य नसतें. योजना अंमलांत आणण्याकरितां तळमळीचे प्रयत्न करणारी माणसें लागतात आणि त्याकरितां सर्वीचें सहकार्य लागतें. श्री. करंदीकर यांचे विचारसरणीची जी मंडळी असतील त्यांनी लोकोपयोगी योजना लवकर अंमलांत येण्याकरितां केवळ टीकाकाराची

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भूमिका न स्वीकारता जरूर ते सहकार्य दिले पाहिजे. सन्माननीय सभासद मि. डांगे यांच्याकडून सहकार्य मिळणार नाही हे मी जाणतो. त्यांची वृत्ती विध्वंसक बनलेली आहे. कोणतेही चांगले काम करा, त्यांच्या पक्षाच्या लोकांना त्यांत चांगले दिसणार नाही. समाजामध्ये अस्वस्थता आणि क्षोभ निर्माण करून देणे हे त्यांच्या पक्षाचे वैशिष्ट्य आहे. त्यांच्याकडून सहकार्याची सरकारने कधीहि अपेक्षा केली नाही. नवीन घरबांदिस्तीच्या योजनेसंबंधाने सन्माननीय सभासद श्री. करंदेकर यांनी सूचना केली त्या बाबतीतहि मला त्यांना सांगावयाचे आहे की सरकारने या बाबतीत उदासीनता पत्करलेली नाही. मुंबईमध्ये बरळी विभागांत नव्या इमारतीचे काम सुरू झालेले आहे. परंतु सरकारने डिपार्टमेंट काढून घरबांदिस्तीला चालना दिल्याबरोबर जिकडे तिकडे घरे घरे दिसतील अशी कल्पना करण्याचे धाडस कोणी करू नये. सरकार, सहकारी सोसायट्या आणि घरबांदिस्तीमध्ये पैसा गुंतविणारा वर्ग या तिघांच्या सहकार्याने हा प्रश्न आपणांस सोडवावयाचा आहे, आणि त्या दृष्टीने प्रयत्न सुरू आहेत. सन्माननीय सभासद श्री. डांगे यांनी कलम १० संबंधाने टीका करतांना मोठे अवडंबर माजवून सांगतले की घरमालकांनी सहा टक्के व्याज देण्याची तरतूद करून घरभाडे वाढविण्याची मोकळीक या बिलांत देण्यांत आली आहे. श्री. डांगे यांनी पुन्हा एकदां कलम १० नीट वाचून पहावे असे मी त्यांना सांगतो. जे घरमालक घरामध्ये तात्पुरत्या दुरुस्तीशिवाय कायम स्वरूपाची सुधारणा किंवा सोय करतील आणि अर्थात ह्या योग्य सुधारणांमुळे भाडेकरूची सोय होणार असेल तर त्या कामाकरिता जी रक्कम खर्च पडेल त्यावर सहा टक्के व्याज या प्रमाणे हिशोब करून भाड्यामध्ये वाढ करता येईल असे या कलमामध्ये म्हटलेले आहे. उदाहरण द्यावयाचे तर एका घरामध्ये १० भाडोत्री आहेत आणि त्या घरात दोन नवीन बांधोळीच्या खोल्या (बाथ रूमस्) बांधाव्यात म्हणून ते घरमालकाकडे गेले, तर हे भाडोत्री इतकी वर्षे आपल्या घरांत आहेत म्हणून आज १९४७ च्या परिस्थितीत एकाच्या चौपट खर्च झाला तरीसुद्धा भाडोत्र्यांची सोय करून देणारे किती घरमालक तयार होतील? अशा बाबतीत घरमालक साहजिकच असा विचार करतो की आतां आपण जरी एकाच्या चौपट पैसा खर्च करून बाथ रूमस् बांधून दिल्या तरी त्या जागेचे भाडे त्याला काही वाढवितां येणार नाही. मग अशा परिस्थितीत तो खर्च करून भाडेकरूची सोय कशाला करतो? अशा तऱ्हेचे भाडेकरूच्या सोईकरिता स्ट्रक्चरल ऑल्टरेशन केल्याबद्दल घरमालकाला

[Mr. G. D. Vartak]

जर कांहीं मोवदला मिळणार नसेल तर तो या फंदांत पडणार नाही, ही गोष्ट आपण लक्षांत ठेवली पाहिजे. मनुष्यस्वभाव न ओळखतां घरमालक आपल्या भाडेकरूंचे हाल होऊं नयेत म्हणून कितीही पैसा लागला तरी आपलें कर्तव्य आहे असें म्हणून खर्च करण्यास तयार होईल अशी कल्पना करणें चुकीचें होईल. सन्माननीय सभासद श्री. डांगे यांनीं आपल्या भाषणामध्ये या कळमासंबंधानें जें अक्टोबर माजविण्याचा प्रयत्न केला त्याचा फोडपणा उघडकीस आणण्याकरितां मी हा खुलासा केला. कदाचित् आपल्या लहरीखातर घरमालक अशा सुधारणा आपल्या घरांत करील अशी भीति किंवा शंका उत्पन्न होण्याचा संभव आहे, पण त्यावेळीं आपण हें लक्षांत ठेवलें पाहिजे कीं तो केलेला फरक योग्य किंवा जरूरीचा आहे किंवा नाही व त्यापासून भाडेकरूला कांहीं फायदा आहे की नाही या बाबतींत भाडेकरूला कांहीं तक्रार करावयाची असेल तर त्याला रेंट कंट्रोलरकडे जातां येईल. ही गोष्ट या बिलांत स्पष्टपणें नमूद केलेली आहे. त्याचप्रमाणें आणखी एक महत्वाची गोष्ट सभागृहाच्या नजरेस मी आणूं इच्छितों. गेल्या दोन चार वर्षांत घरांच्या दुरुस्तीसंबंधी जी अनास्था झालेली आहे तिचाहि विचार आपण केला पाहिजे. घरमालकास इमारतीच्या दुरुस्तीला लागणारें सामान मिळू शकलें नाहीं, त्यांच्या किमती तिप्पट चौपट वाढल्या, अशा परिस्थितींत कित्येक घरमालकांना दुरुस्ती करणें शक्य नव्हतें हें मी जाणतों. त्या दुरुस्त्या होऊन भाडेकरूंना त्यांच्या आरोग्याच्या दृष्टीनें त्यांच्या जागा राहण्यालायक व्हाव्यात ही गोष्ट विचारांत घेऊन त्याप्रमाणें २४ व्या कळमांत तरतूद करण्यांत आली आहे. नगरपालिकांच्या मार्फत आतांपर्यंत या कामावर देखरेख ठेवण्यांत येत असे. पण त्याबाबतींत अशा तक्रारी आल्या कीं या संस्थेच्या मार्फत अडचणी दूर होण्यास फार वेळ लागतो. यासाठीं या कळमामध्ये अशी तरतूद करण्यांत आली आहे कीं योग्य सूचना देऊनही जर घरमालक सुधारणा करायला तयार नसेल तर एक महिन्याच्या भाड्याइतकी रक्कम त्या सुधारणेसाठीं म्हणून भाडेकरूंना खर्च करतां येईल. ही तरतूद सन्माननीय सभासद श्री. डांगे यांना दिसली नसेल असें नाहीं. कदाचित् दिसली असली तरी ती समजून घेण्याची इच्छाच नसेल. या बिलांत कोणत्या गोष्टी घातल्या आहेत आणि भाडेकरूंच्या संरक्षणासाठीं काय तरतूद केली आहे हें सांगण्याची त्यांना बुद्धी होणेंच शक्य नाहीं. त्यानंतर या बिलामध्ये जी एक महत्वाची सुधारणा केलेली आहे तिचा उद्देश करणें जरूर आहे. भाडें आकारणेची पद्धत कांहीं ठिकाणीं हिंदु पंचांगाप्रमाणें असल्याकारणानें तीन वर्षांतून एका महिन्याचें म्हणजे 'अधिक' महिन्याचें ज्ञास्त

[Mr. G. D. Vartak]

भाडे या पद्धतीप्रमाणे भाडेकन्याला द्यावे लागते. ही पद्धत बदलून त्या ठिकाणी इंग्रजी कॅलेंडरप्रमाणे भाडे घेण्यांत यावे अशी या विलाच्या कलम १२ मध्ये तरतूद करण्यांत आली आहे. अलीकडे 'पगडीचा' प्रश्न फार मोठा विकट होऊन बसलेला आहे. त्याला आळा घालण्याचे काम कठीण असले तरी या विलामध्ये जी एक योजना यासंबंधांत करण्यांत आलेली आहे त्या योजनेप्रमाणे व्यवस्थितपणाने सर्वांनी सहकार्य दिले तर समाजामध्ये पसरत चाललेल्या या अनिष्ट पद्धतीस आळा बसल्याशिवाय राहणार नाही. पगडीसाठी अनेक युक्त्या लढविल्या जातात. हल्ली सहा महिन्यांचे अगर वर्षाचे भाडे अंगावर अँडव्हान्स म्हणून घेतल्यास पगडीचा गुन्हा होत नाही. या विलांत अँडव्हान्स किती घेता येईल ते स्पष्ट रीतीने सांगण्यांत आल्यामुळे अँडव्हान्सच्या नावाखाली साळसूदपणाने पगडी घेतली नाही म्हणून पळवाट काढता येत होती ती आता नाहीशी होणार आहे. या संबंधीची तरतूद कलम १९ मध्ये करण्यांत आलेली आहे. मला या विलासंबंधाने कलमवार चर्चा या वेळेला करावयाची नाही. सामान्यतः या विलाची रूपरेषा काय आहे याची कालपासून अनेक सभासदांनी चर्चा केलेली आहे. एक गोष्ट आपण लक्षांत ठेवली पाहिजे की कोणत्याही एक वर्गाच्या हिताकरिता हे विल आणलेले नाही. या विलाचा समाजामध्ये अस्वस्थता होऊ नये हाच उद्देश आहे. मालक आणि भाडेकरू यांच्यामध्ये अहिनकूलासारखे वैर नसून ते दोघेही एका समाजाचे घटक आहेत, आणि त्यांनी आपापली जबाबदारी आणि कर्तव्य ओळखून वागले पाहिजे याची दखलगिरी हे विल तयार करतांना घेतलेली आहे. असे हे विल सभागृहापुढे आले असतांना कोणीही जबाबदार माणूस या विलाला विरोध करू शकेल असे मला वाटत नाही.

ज्यांना या विलामध्ये सुधारणा सुचवावयाच्या असतील त्यांनी त्या जरूर सुचवाव्यात. विधायक सूचनांचा विचार सिलेक्ट कमिटीमध्ये अवश्य करता येईल. अडचणीचा परिहार अडचणी पुढे मांडल्यानंतर करता येईल. मुंबईचा भाडेकरू संघ आणि त्याचे चिटणीस श्री. गोखले आणि दुसऱ्या अनेक गृहस्थांकडून हे विल स्वागतार्ह आहे आणि या विलाचे कायद्यांत रूपांतर झाल्यानंतर आज ठिकठिकाणी भाडेकरूंच्या बाबतीत राहाण्याच्या जागेसंबंधाने ज्या अडचणी निर्माण झाल्या आहेत त्या बऱ्याच अंशाने कमी होतील अशी विचारसरणी जांहीररीत्या प्रगट करण्यांत आली आहे. अशा रीतीने या विलाचे सार्थे आणि सरळ स्वरूप मी या सभागृहापुढे ठेवले आहे. यापेक्षा

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अधिक स्पष्टीकरण करण्याची जरूरी आहे असें मला वाटत नाही. या सभागृहामध्ये या विळसंबंधी गैरसमज उत्पन्न करणाऱ्या ज्या कांहीं गोष्टी सांगितल्या गेल्या त्यांचें निरसन करून, वस्तुस्थिती काय आहे हें सांगण्यासाठीं मी हा खुलासा केला.

कोणाहि व्यक्तीवद्दल गैरसमज पसरविण्याचा माझा इरादा नव्हता. तेव्हां आपल्यासमोर जें विल आहे त्याला आपण सर्वांनी संमति द्यावी, विधायक सूचना प्रसंगीत तर कराव्यात आणि हें विल स्वागतार्ह आहे अशी भावना बाळगावी. एवढेंच या प्रसंगाला सांगून, अध्यक्ष महाराज, मी आपलें भाषण संपवितों.

Mr. J. H. SHAMSUDDIN (Kanara District): Mr. Speaker, Sir, it is rather difficult to offer any remarks on this Bill, because there are certain provisions by which the tendency to raise rents is sought to be controlled and regulated. But, I am trying to look at the Bill from an entirely different point of view.

The Bill purports to be an emergency measure and is given a short life. I want to ask the Government whether they are entitled to undertake this measure, and whether they will be true to their professions in the past if they do so. If the answer to this question is in the negative. I feel, Sir, Government will have to share a large amount of blame for not tackling the problem of housing in a rational and proper way.

Sir, there is a history behind rent control. We know that rent control began in the year 1918 under the Defence of India Rules, and that an Act was passed subsequently when rents began to shoot up and the evil of *pugree* started in industrial cities like Bombay and Ahmedabad on the outbreak of the first world war. We had an Act in 1918 when the bureaucratic Government thought it fit for the first time to intervene and check the nefarious activities of the landlords which were creating a difficult situation on account of the war conditions. That Act remained in force for about a decade from 1918 to 1928. Then it was repealed. After that, the Congress Ministry came in office in 1937, and in 1939 they came out with an Act in order to meet the peculiar circumstances that had then arisen. Therefore, they introduced the Act in the urban areas. The Urban Immoveable Property Tax was then in force and they were afraid that the owners would shift the burden of that tax from their shoulders to those of the tenants, and in order to regulate the rise in rents on account of the property tax, they enacted this Act in 1939. That Act was also of a temporary nature. It was an attempt to regulate the rise in rents and to tackle

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the problem that confronted them at that time. The War broke out in 1939, and soon thereafter the popular Government went out of office. The evils which the bureaucratic Government had to face during the first world war, again came into existence in a greater degree and were experienced by the tenants at large in a very acute and intense manner. The Section 93 Government tried to solve the problem in an emergent way, not in a permanent way. They enacted the Act of 1944. Now, we have got a Bill, which incorporates some of the provisions of that Act, and which will last till 1950. So, it is clear that this Bill is also an emergent measure to deal with a temporary contingency. This attitude of Government to frame this Act as a temporary measure is illogical and improper, because it shows that Government has shelved in the pigeonholes, or has turned a deaf ear and a blind eye to the report of the Committee which they themselves had appointed, and which made certain very important recommendations. It is high time that the Government dealt with this problem in a permanent way, and not in a way just to meet an emergent situation which has arisen due to the war. Although the war is not there for the last two years, the conditions of war are still prevailing, perhaps in a more aggravated form. From the report of the Committee we find that conditions regarding housing were worse after the first world war, and that is why the Government of those days enacted an Act in 1918 to check the evil of high rents and protect the tenants from the whims and vagaries of landlords. Now, here we find that there is a contradiction in Government's actions. Government here wants to classify landlords into two categories; one, landlords of agricultural lands, and secondly landlords of non-agricultural lands. It wants to treat them differently. When Government has endeavoured to restrict the nefarious activities of landlords of agricultural lands in a permanent way, and has brought on the statute book Acts to control their illegal activities, why should Government not bring on the statute book a measure to control in a permanent way the activities of landlords of non-agricultural lands in urban areas? I feel that the activities of the landlords in urban areas, that is to say, in cities and towns, are more dangerous to society than the activities of the landlords in rural areas. What is the reason for leaving the landlords in urban areas alone? I can imagine only one. It is that they are more organised, they are more vocal, and Government wants to treat them rather mercifully and softly. If that is not the reason, then I am not aware of any other justification to deal with them in a different and haphazard manner. I would like to substantiate all that I have said by the salient remarks made by the Enquiry Committee that was appointed by this Government in 1937.

Sir, as I said, this is a temporary measure and will last till March 1950, and, therefore, Government has failed to deal with this problem in a rational way. Government has also not given any indication that when the circumstances return to normal, they will deal with this problem again to the satisfaction of all concerned.

[Mr. J. H. Shamsuddin]

I feel that this Bill is a half hearted attempt, and, therefore, it will not evoke any welcome from this side of the House. Many villages and towns in the mofussil have been included in the schedules to this Bill. But the problem which requires immediate attention is the problem facing the large numbers of tenants living in big cities like Bombay, Ahmedabad, Sholapur and Poona. This problem has been in existence from 1937, and has recently assumed very serious proportions. Therefore, Government should have attempted to give immediate attention to these industrial cities. The fundamental difference between the approach to this problem that is enunciated in this Bill and the approach that I am advocating is that Government is going on in a haphazard manner, doing things as if to meet a temporary contingency, whereas my plea is that something should be done to the satisfaction of all concerned even after the circumstances that have been aggravated due to the war, return to normal. And that is why I say, Government should have given immediate attention to the industrial areas. Even the committee, while examining the effects and influences of the Act of 1918 and emphasising the necessity of having a piece of legislation in 1938 or 1939, came to the conclusion that the matter was so serious, so urgent, so complicated from all sides of view that no Government, much less a popular Government, could afford to shelve it to a future date. This was the situation, according to the report of the committee in the year 1937. The House could very well imagine the situation which is now so much aggravated, and aggravated so far as the tenants are concerned, and must feel that it brooks no delay and should be tackled satisfactorily once and for all.

Sir, I may be permitted to read a few sentences from this report. I shall read from paragraph 58 page 25. That paragraph deals with the Statement of Objects and Reasons of the Act of 1918, and it goes on to make out a case for dealing with the problem permanently in the year 1938-39. The Committee say :

"Although the war has ceased, some of the conditions visualised in the Statement still persist. The population of the city has increased, and the accommodation has failed to keep pace with the growing requirements. Overcrowding long preceded the war. It has been a chronic feature of the city. But rack-renting was probably not so general as during the war."

Rack-renting was then so marked that even the bureaucratic Government of the day became sensitive to it and officially took cognizance of it. It accepted the principle that even during the war period one class should not act in a way detrimental to another class, and any attempt in that direction would justify State intervention. This, in our opinion is true for all times, and its non-acceptance is tantamount to the rejection of an elementary principle of general welfare. So if Government accept this, as they are in duty bound to do, then they should not have brought forward this piece of legislation. They should have tackled

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the problem on a permanent basis, in a way satisfactory to all concerned. And inasmuch as Government have, by admission, failed to tackle the problem on a permanent basis, they deserve all the criticism that can be levelled against this measure.

Sir, much has been said about the need for weighing the scales evenly between landlords and tenants. It has been said that this Bill has been drafted with a view to dispensing equitable justice to the two parties. I accept the principle that justice should be equitably meted out, but that is subject to certain reservations. The scales should be weighed evenly between landlords and tenants provided the hands of both the parties are pure. If the hands of one party are tainted, the scales must be weighed in favour of the party the hands of which are pure. I do not say that the landlords have been completely guilty, but let us see what the Rent Enquiry Committee had to say about the landlord class. The interests of the landlords and of the tenants are conflicting, and it is difficult for one having a pro-landlord or a pro-tenant attitude to conclude whose hands are tainted. The members of the Rent Enquiry Committee did not have either a soft corner for the tenants or any particular leanings towards the landlords. They performed their duties in a judicious manner, and I find that they have concluded that the landlords' methods, ingenuity, tactics and ways of dealing with the tenants have been very objectionable, and at times criminal, even at a time when there was no war, when prices were falling and when there was slump everywhere. What was the position in 1937? We can visualise the possibility of this piece of legislation being repealed in 1950 if, by that time, Government comes to the conclusion that conditions have become normal. And then we must know whether the landlords will deal with the tenants in a reasonable and satisfactory manner. To know whether they will do so, it is enough if we examine the state of affairs which existed in 1937. In that year there were no abnormal conditions—if anything, conditions were favourable to the landlords. There was no shortage of housing as there is now. The hon. Member Mr. Parikh said that at present there is no incentive to build more houses, that the panacea to meet the housing shortage is to build more houses, and that more houses will be built once the controls are removed. I would have accepted this proposition had the Rent Enquiry Committee not enquired into this particular aspect of the problem. They went into it; and what is the finding of that committee? It is quite contrary to what the hon. Member said. The committee says that more houses came into being during the time of the control than when there was no control. Therefore, the hon. Member's argument in favour of decontrol cannot be accepted as an unbiassed argument. He tried to argue in a round-about way in favour of decontrol. He could have argued it directly. I do not know why he did not do it; he knows it better. He tried to convince the House that more houses will come into being if there is

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no control. His contention is that decontrol will induce the landlords to invest their capital on constructing buildings. The Rent Enquiry Committee's findings are relevant in this connection and, therefore, I take the liberty of reading one or two sentences therefrom :—

"In fact the figures prove that more tenements were constructed during the time the Rent Restriction Act was in operation than during the period following the expiry of the Act. The factors that govern the pace of building industry are to be sought in other directions than in the direction of the control."

This shows that even when there was no control of any sort, the activities of the landlords were not such as to contribute to the well-being of society. The tenants are by far the largest class of people, and if anything detrimental is done to them by the landlords, that will be detrimental to society as a whole. The principal object of any rent control measure should, therefore, be the attainment of the maximum possible social good. If it is found that the maximum social good and social justice are not ensured by the provisions of the Bill, I feel that every right-thinking person will be justified in criticising it as a failing measure, and in not according his support to it. In 1937, when conditions were normal, the landlords used to inconvenience the tenants so much that the need for a legislation was keenly felt. Moreover, the committee has described the one-room tenements in Bombay as nothing better than packing boxes. [An hon. Member: Sardine boxes!] This is not an armchair criticism. The committee took the trouble of visiting many localities inhabited by the middle and poor classes and was constrained to remark that the one-room tenements were nothing better than packing boxes. If that was the position in 1937, one can easily imagine the position today. I can only characterise the committee's description as the Black Hole, of which we have read in history. Today, after the lapse of ten years, when conditions have become abnormal as a result of a world war, the one-room tenements should be worse than the Black Hole of Calcutta.

[*Recess from 4-30 p.m. to 5-00 p.m.*]

Mr. J. H. SHAMSUDDIN: Sir, what I was trying to show was that the Bill has not come up to reasonable expectations, and I say this for several reasons. One of the reasons is that the Bill deals with the problem as if an emergency has arisen. It does not deal with the problem in the way it should. In this connection, I would refer to the appalling conditions that prevailed in the tenements occupied by the middle class and labour population in Bombay City and other places. The other reason, to which I made a reference in the beginning of my remarks, is that the Bill does not do justice and equity to the conflicting interests of the landlord and the tenant. It is a truism that the tenant class is larger in number than the landlord class. This factor should be borne in mind when trying to

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reconcile the conflicting interests of the two parties. This consideration should guide us in analysing the various provisions in the Bill with a view to seeing whether they are just and equitable. It is apparent, Sir, that, if weighed in the balance, the tenant will be found to have less bargaining power than the landlord, and that is because of the economic resources of the latter. The privileged position of the landlord is also another factor. I find that several provisions in the Bill are more in favour of the landlord than in favour of the tenant. I feel that the Bill assumes, and the assumption is, in my opinion, unjustified, that both the classes have the same bargaining power. That is not a correct reading. Even in normal times, the landlord has a greater bargaining power than his tenant. Therefore, Government should have brought in a Bill more in favour of the tenant than in favour of the landlord. There is another reason also why Government should have done this. The economic condition of the masses, at present, is such that, if in the matter of housing accommodation the law of supply and demand was allowed to have its play, the masses would not be in a position to provide themselves with shelter. The duty of the Government is as much to provide such people with shelter as it is to provide them with food and clothing. Government has established criminal settlements and prisons to keep criminals and certain other persons whose liberty needs to be restrained. Such persons are kept in sanitary surroundings and are given food and clothing. Even when criminals are looked after in this way, it stands to reason that Government should look after the shelter of the masses whose economic condition does not allow them to provide it for themselves in the normal way. It is the primary duty of the Government to see that this class of subjects gets proper shelter. That is why I said, Sir, that the provisions in the Bill should have been made to weigh more in favour of the tenant than of the landlord. Judged from these two criteria, I feel that the Bill is disappointing.

The third test I would apply in judging the provisions of the Bill is : What was the position before, and what will be the position when the Bill becomes law, so far as the quantum of rent is concerned ? The Bill seeks to fix a standard rent. By a provision in the Bill, we are legalising the rent that prevailed at a time when the law of supply and demand was operating, that is to say, when there was no rent control. In cases where the rent has not been fixed under the existing law in this behalf, we are under the provisions of this Bill, giving legal recognition to the rent that prevailed in September 1940. We know, Sir, that in 1940 the law of supply and demand was operating, and the balance of advantage was in favour of the landlord. Let us take the year 1937 as the basic period for the purpose, because in that year, Government appointed a Rent Inquiry Committee. The Committee came to the conclusion that there should be a reduction in rent on the ground that the rent then being charged to the middle class and the working class was exorbitant. It recommended that Government should bring in

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legislation to reduce the rents. That was in the year 1937. We are now in the year 1947, and conditions have changed very much since then. Instead of decreasing, the rents have now tremendously increased. We should have expected Government to bring in a measure to reduce the rate of rent that was prevailing in 1937. Instead, we find that it seeks to legalise the rents that prevailed then. From this point of view also, Sir, the Bill is disappointing. If there was a justification for effecting a reduction in rents prevailing in 1937, I submit that there is all the more justification for doing so now in 1947. Instead of doing that Government, under the Bill allows some increase in the rent. The public is therefore, justified in its criticism that the Government has introduced a measure which is more in favour of the landlord class than in favour of the tenant class. Taking into consideration the two or three provisions which I have mentioned, I am sure the House will be convinced that the Bill is disappointing.

I was referring, Sir, to the world of difference between the bargaining power of a landlord and that of a tenant. If a tenant takes *pugree*, he is to be prosecuted and fined; if a landlord does the same thing, he too will be prosecuted and fined. If a tenant commits a breach of the conditions laid down and does not pay the rent, he will be ejected. So, in all these provisions, there is an assumption that equal justice is meted out between two equal parties, which is not at all correct. The real position is that justice is meted out between two unequal parties, the party having less bargaining power, that is the tenant, being considered to be on a par with the landlord. Now, Sir, how is it done?

Let me take up clause 15, which pertains to the right of a landlord to recover possession of a building under certain conditions. Here, if we assume that the two parties in the conflict are equal, then naturally the different provisions are all right, but the real position is that the two parties are unequal. Supposing one of the conditions regarding the permitted increase in rent, as stipulated in clause 10, is broken by a tenant, then he will be completely at sea. He will be at the mercy of the Controller, and Government will not go to his rescue. Again, it is possible that a landlord may think that a particular tenement of three rooms is not sufficient and he may convert it into a bigger tenement to accommodate more families. The landlord will then increase the rent and the original tenant will not be able to bear it. In all such cases, we cannot expect the Controller to do proper justice to both the parties.

There is also another question, and that is pertaining to the middle class and the poorer class. These people cannot be expected to go to a Controller, put up their case properly, meet the machinations and manoeuvres of a landlord and show to the Controller that the application of the landlord is not proper and just. I am not using the

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words "machinations and manoeuvres" on my own account. I do not want, Sir, to take up the time of the House by quoting a paragraph from the Rent Enquiry Committee Report, where they have gone to the extent of saying that the conditions of ejectment are such that the poor tenant is easily thrown into the open sea. It is definitely a fact because the tenant will not be able to meet successfully the ingenious methods of a landlord. If we take all these things into consideration, then clause 15 is not a good clause.

I shall now deal with clause 10, relating to the increase in rent which could be made by a landlord. As I said before, everybody expected that there would be a decrease in rent, but, instead of that, we have got here a provision regarding increase in rent. The increase that is permitted is 6%. Now, there is another question which is pertaining to this problem as well, and that is, the rent ought to have been regulated in a scientific manner. It ought to have a bearing on the total return on the investments of a landlord. Clause 10 says that the increased rent is to be calculated on the return which a landlord is to get on the improvements effected. That is not at all proper. The principle that we have enunciated is accepted by Government in some other instance. For example, we know that in rural areas, lands are divided into two classes, agricultural and non-agricultural. This legislation relates to all lands which are non-agricultural. In the case of agricultural lands, Government has fixed a proportion with regard to yield, and that is based on the return on capital that is invested on the land. Similarly we too must accept that principle and extend it here in the sense that the rent should be related to the return on capital.

The question of fixing up a percentage is a very complicated one because there the trouble about gross and net rent comes in—whether 6 per cent. gross or whether 6 per cent. net should be given. It is an not going into—

Mr. CHHOTALAL A. VYAS: On a point of information, Sir, May I know from the hon. Member whether he is talking about reconstruction or improvement, when he talks about 6 per cent. increase in rent?

Mr. J. H. SHAMSUDDIN: Sir, I was referring to the general standard of rent, and I was incidentally mentioning about clause 10 as well. What I wanted to say was that the rent must be so fixed that it is based on a definite percentage of the capital invested. [Interruption.]

The Hon. the SPEAKER: There should be no arguments across the table.

Mr. J. H. SHAMSUDDIN: Sir, clause 10 deals with increase in rent. My plea is that there should be a total decrease in rent. In 1937, the Rent enquiry Committee had recommended that Government should bring in legislation, and allow 10 per cent. decrease on the rents that were then charged. Circumstances have so changed now that rents have gone to a dizzy height, and, therefore, this piece of legislation should have proposed a complete reduction in rent. While giving such a reduction, Government should have come to the conclusion as to what should be the proper and standard rent. My own suggestion is that it should be based on a percentage on investment; the return should be calculated on a definite percentage of profit over expenditure on buildings. The percentage may be 6 or 7 or even 3; that will depend upon whether the percentage is net or gross. When I say that Government should have reduced the rents totally in this very Bill, I am taking my stand on the Committee's report. Page 32 of that report states:

"We have given prolonged considerations to this question and have come to the conclusion that the situation demands a reduction of 10 per cent. in monthly rents of Rs. 30 and below. When one looks round and takes note of the accommodation and the amenities available for the rents charged, one cannot escape the impression that the occupant is made to pay more than what he gets in return. We have been driven to this conclusion by our visits to several unhealthy spots and chawls inhabited by poorer sections of the community. The surroundings under which they are made to live are simply deplorable."

Now, what do we find in clause 10? Instead of reducing the rent, Government gives power to a landlord to increase the rent. Let us see what that power is and how it can be misused. An increase of 6 per cent. per annum in rent on the amount spent on any reasonable improvement or structural alteration is allowed. We know, Sir, that under the present conditions, it is very difficult for Government even to get the necessary materials either to build or to repair houses. So, naturally, so far as alteration is concerned, I feel that that section will remain a dead letter, and there will be no increase. But what will be the advantage taken? Section 10 will be availed of through section 15, and eviction will take place, because landlords will go to the Controller and say, "I want to have an ultra modern building, or want to carry out ultra modern structural alterations, and so I want possession of my building." This will put the tenant to considerable trouble. For, once he gives possession of his tenement, he has no time to go to the City, and see whether structural alterations have been completely carried out or not, as he has to attend his factory, office, or wherever he is employed. His time will be taken up at the place of his employment. Section 10 read with section 15 will be taken advantage of for purposes of eviction, as a result of which people will be thrown on the streets. Moreover, the bargaining power between the two is not the same, and it is possible that the landlord may not carry out alterations in a proper way, once the certificate is given. Section 10 read with section 15 gives the landlords a handle to have possession of the tenements.

The Hon. the SPEAKER: I think that the hon. Member means section 18 which refers to recovery of possession for occupation and reconstruction etc., and re-entry.

Mr. J. H. SHAMSUDDIN: Yes, Sir, I mean section 18.

Sir, I think that the increase is not justified because there is no method for calculating the amount spent on structural alterations, and, besides, there is also a danger. And what is that danger? For instance, take a labour-class tenement. Suppose the landlord wants to carry out some alterations to it. The cost of alteration may be so heavy—the cost of building materials is very dear—that it may not be possible for the poor tenant occupying it to bear the 6 per cent. increase, which is allowed under clause 10. What is the natural outcome of this? Suppose a landlord spends Rs. 50,000 on a tenement—the maximum amount that can be spent in this behalf has not been laid down—and 6 per cent. of this amount is added to the rent, it will be beyond the economic power of the poor tenants. Where is the guarantee that it will not be beyond their economic power? If they are unable to pay the enhanced rent, naturally the result will be eviction. Of course, it may be voluntary. I, therefore, feel that this clause will also work against the tenants.

I feel that this measure will not satisfy those who expect Government to deal with this problem in a rational way, because, in the first place, an increase has been sanctioned; secondly, this problem is dealt with as a temporary measure; and thirdly, the bargaining power between the two parties is not equal.

Mr. ABDUL SATAR A. GANDHI (Surat District): Mr. Speaker, Sir, it is indeed a pleasure to speak on a Bill on which the hon. Member Mr. Parikh, the representative of the mill-owners, has spoken.

To start with I may make position very clear. I am cent per cent. for tenants, and not even one per cent. for landlords, and so far as this Bill is concerned, I think that it may be commendable to the extent it goes, and condemnable for the extent it does not go. It has become a fashion of the day for the landlords and the wealthy people to talk in the name of the multitudes of people, and the hon. Member, Mr. Parikh has spoken in the name of humanity and the teeming millions and also talked of the essentialities of life such as food and cloth. I have always maintained that Government cannot be held responsible for the critical position. But who else can be held responsible for the present cloth shortage but the class of people to which the hon. Member, Mr. Parikh, who is the representative of the mill-owners, belongs? Is he prepared to make a solemn declaration before this House that the cloth famine is not of his creation in collusion with the Government that preceded

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the present Government, namely, the Section 93 Government? Today he says that it is because of the Section 93 Government that we are facing a cloth famine. I would invite his attention to the various pamphlets that were issued by the hon. Member of this House, Mr. Khandubhai. Let him go through those pamphlets, and then try to apportion blame to those responsible for the creation of cloth scarcity. I would not have dragged him into my discussion, had he not talked of the teeming millions and about food, cloth, and this, that or the other. We know that the plight which the poor people here and everywhere in the world find themselves in, is on account of this landlordism and capitalism. So, when a representative of the mill-owners comes and reads a brief on behalf of the teeming millions, it is indeed very amusing. This shows to what height hypocrisy can go. He spoke and spoke with tears in his eyes. I think that they were crocodile tears. Sir, I am very sorry that I cannot agree with the various conclusions that he has drawn. He tried to influence the Hon. Minister for Law who has piloted this Bill.

He says that it is this control that comes in the way of the building activity. He says, "I am for tenants; I am not for landlords", and then puts forward the theory that rent control comes in the way of building operations. So, he says, "take away all the powers from the hands of the Controller. Let there be no control, so that thousands and millions of buildings may come into existence, and scarcity of accommodation may disappear the very next day." This is indeed a wonderful argument which people belonging to his own class alone can follow. At least I, who belong to the class of laymen, cannot follow such an argument. I, for one cannot understand how an increase of rent and no control on it, can remove scarcity. If I am to analyse his speech, I think that there will be numerous self-contradictions. He has arrived at horrible conclusions, and logic, to put it mildly, has simply been badly exploited. There are contradictions after contradictions. He would have been well-advised not to speak on this Bill. Let others do the job. But the hon. member Mr. Dange was playing on his brains.

Mr. MORARJI R. DESAI: And Mr. Parikh seems to be on your brains.

Mr. ABDUL SATAR GANDHI: Yes. He is surely playing upon my brains and I will say why? As in the matter of forward trading, so in this Bill, he has come forward with a brief on behalf of the landlords, and is trying to influence the Government.

Mr. MORARJI R. DESAI: Government will take care of itself.

Mr. ABDUL SATAR A. GANDHI: I am told that Government will take care of itself. Sir, I know what has happened in the past and how the Government was influenced by the wealthy people. The Bill

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that we are considering seeks to do away with scarcity of premises. It has been stated in the Aims and Objects of this Bill that control is sought to be brought in, because there is scarcity of premises. The hon. the Law Member seems to agree with my contention. It comes to this that by controlling the rents  
5-30 p.m. Government seems to be thinking that the scarcity of premises shall be removed. To what extent?

Here, I would say that the hon. Member Mr. Parikh played on my brain, for, in my considered opinion, it is that class of people who are responsible for the scarcity of premises in Bombay. There are thousands of luxury tenements in which people like the hon. Member Mr. Parikh are living. They have got drawing rooms, ball rooms and all sorts of rooms. When millions of people are sleeping on the footpaths, here are a gentry who are occupying flats. One cannot say what type of luxurious flats they are. I had occasion a few days back, to visit a few flats. In a flat of 8 or 10 rooms there are the landlord, the landlady and probably a son or a daughter. What justification have these gentlemen to occupy these luxury flats, when millions of people are sleeping on the footpaths for want of residential accommodation? If Government is really sincere to go to the aid and rescue of the teeming millions, what would have been a just and proper measure?

I would go straight to the root of the problem, for I think there is one remedy. There is one constructive suggestion in order to have immediate relief from the scarcity that is prevailing in the city of Bombay. Take the instance of food. When there was food shortage, and when thousands of people were starving, rationing was introduced. Take the case of cloth. When there was a scarcity of cloth, rationing was introduced. Sir, what is the justification for not introducing rationing in so far as premises are concerned? My suggestion may perhaps be taken or described as very fantastic. I would ask the Government: "Do you assure the public, do you assure the tax-payers of this Province that the scarcity of premises will vanish in an imaginable period of time?" Government's reply will be "No". The Government does know that the people are suffering for want of premises. At the same time, there are thousands of 3, 4, 5 and 6 room tenements, flats and palatial buildings where not more than 2 or 3 persons occupy a tenement, flat or building. If we just go to the Napean sea Road and such other parts in Bombay, we see two or three people occupying a whole bungalow.

Sir, residential premises have gone short. There is acute scarcity of premises. We do not see any prospect of so many buildings springing up within, say, two, three or four years. Therefore, the best way for Government will be to introduce rationing of premises. If Government could ration food which concerns so many millions of people, why not

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ration premises which affects only a few thousand families—yes, rich of course. If food can be rationed, premises also can be rationed. I would, therefore, request Government to come forward with a measure to the effect that from the date of operation of that measure all the tenements will vest in Government and that Government will ration the premises. Every man will be given premises according to his needs.

Mr. G. W. JOSHI : Let it be done in Karachi.

MR. ABDUL SATAR A. GANDHI : Sir, rationing of premises is the only remedy that I can think of. It is there that I said that the hon. Member Mr. Parikh is playing upon my brain. I think he has no moral justification to occupy a luxurious flat when thousands of people are without a roof. I hope Government will bring a measure to take control of all premises.

Mr. MORARJI R. DESAI : Will the hon. Member be prepared to surrender his flat ?

MR. ABDUL SATAR A. GANDHI : I readily assure the Hon. Home Minister that if he introduces such a measure, I shall very willingly lay my premises at the disposal of the Government. I agree, Sir, that I have no right to use more space than what I am entitled to and need, looking to the present acute scarcity of premises. Let Government come to the help of those who have no premises. As everybody knows, providing shelter is the responsibility of Government. Government's responsibility does not end with the provision of food and clothing for the people; after food and clothing comes the problem of housing the people and there Mr. Parikh too agrees, and if Government accepts that it is a State liability, then here is a measure : ration the premises. I am quite sure that if premises are to be rationed, immediately all the people will have to surrender their flats. Of course, the landlords occupying big flats will be put to a lot of difficulties. I shall not dilate on this point further. I would only request my hon. Friends here to give cool and collective consideration to my proposal, and not to run it down simply because it comes from this side of the House.

Sir, any proposal that comes from these benches is branded as communalism; anything that comes from that solitary corner is treated as communism, and anything coming from the Treasury benches is treated as nationalism. We are asked to say this and that at Karachi and Calcutta. Sir, this should not be our outlook. Let us change our outlook.

I was asked to advocate this in Karachi. Strange, bad logic and mentality ! I say this argument equally applies to that Government also. If the Government there is sincere and there is such scarcity

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as in Bombay, let it introduce rationing of premises. I would also request that Government to bring out a piece of legislation on the same lines as I have advocated here. I would not then be asking the opposition there to look to Bombay or U. P.

There are some salient features in the present Bill which would require reconsideration when the Bill goes to the Select Committee. I will refer to certain very important clauses of the Bill.

In the first instance, Sir, I would refer to clause 10. Clause 10 has been discussed by several hon. Members. We were told by the hon. the Law Minister that tenants are now given a great advantage by this Bill in so far as keeping the premises in a good and tenantable repair is now the liability of the landlord. It was pointed out by the Hon. Minister that under the Transfer of Property Act the responsibility of keeping the premises in good and tenantable repair was that of the tenant. This Bill seeks to reverse that order. That will now be the responsibility of the landlord instead of that of the tenant. Oh, what a great advantage to tenants! But, Sir, we were not pointed out that under the Transfer of Property Act, "structural alterations and reasonable improvements" were not the liability of the tenant as it is sought to be made now. So, it comes to this: So far, the tenant's liability was only to keep the premises in tenantable repair. Now this Bill seeks to reverse the order in favour of the landlord by making the tenant liable for all reasonable improvements and structural alterations. What a great advantage to the tenants indeed! I can understand making the tenant liable for reasonable improvements, but I cannot understand at any rate how the tenant can be charged for structural alterations which would cost enormously huge sums. The landlord may charge the tenant for some reasonable improvements, but it is not reasonable and fair to charge the tenant for structural alterations. It will be putting a heavy tax on the poor tenant. Some unscrupulous landlords—most of the landlords are unscrupulous in my opinion—may effect structural alterations which may cost Rs. 10,000 to Rs. 20,000 and then charge the tenant for such alterations. If a tenant is paying Rs. 100 per month, he will have to pay something like 25 per cent more, when the figures of the increase are worked out. In order to mitigate the troubles and difficulties of the tenant, I would suggest that we had better put in a clause to the effect that the increase shall be either 6 per cent. of the rent which the tenant is actually paying or 6 per cent. of the total amount expended on alterations and repairs, whichever is less. A landlord may spend thousands of rupees for structural alterations and improvements not attended to by him for half a century and it will not be fair to charge the tenant 6 per cent. on that cost. I have, therefore, suggested that the increase should be restricted to 6 per cent. of the cost of repairs or of the rent actually paid, whichever is less. If I am paying Rs. 100 per month as rent, the maximum increase I may have to pay is Rs. 6 as suggested by me; but if I am

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to pay 6 per cent. of the cost of repairs, sometimes I may have to pay an increase of Rs. 25, 30 or more if actual figures are taken into consideration. Of course, I am not in favour of the poor tenant being charged for structural alterations.

In this Bill, three types of repairs are mentioned: (1) good and tenantable repairs, (2) reasonable improvements and (3) structural alterations. The Bill says that the landlord shall be liable to keep the premises in good and tenantable repairs. The Bill further says that the tenant shall be responsible for the cost of all reasonable improvements and structural alterations. Sir, let us reverse this order; let us go back to the Transfer of Property Act. In that case keeping the premises in good and tenantable repairs will be the responsibility of the tenant. It would not then mean further taxation on the tenant. We are reversing the order in favour of the landlord, not in favour of the tenant. Therefore, I submit that when this Bill is discussed in the Select Committee, this aspect of the question may kindly be considered. At any rate, I am not in favour of this 6 per cent. increase. Even the Reserve Bank, we are told, gives only 3 per cent. What is the justification for giving 6 per cent? I feel certain that this will be a permanent increase in rent. I do not think that when this Act ceases to operate or when the amount thus spent, is realized, our landlords will be so kind and charitable as to decrease the rent by 6 per cent. If Government takes the responsibility that, when this Bill ceases to operate, there will be a wholesale reduction of 6 per cent. in rents, that we are now going to give to the landlords by this piece of legislation, well and good. If that is not to be done, then I do not think it will be fair to the tenants.

Now I would draw the attention of the House to sub-clause (f) of clause 15. In my opinion, it is a very important sub-clause. It reads as follows:—

“that the tenant has, since the coming into operation of this Act, sub-let or transferred in any manner the whole or part of the premises without the permission of the landlord; or”

Up to now, the tenant was at liberty to sub-let his premises, and I think this provision has to a great extent met and reduced the scarcity of accommodation. If I have two rooms in my possession and a friend approaches me for a room and I part with one room, why should I be prevented from doing that? If I can dispense with one room, why should there be a ban on my sub-letting it without the consent of the landlord? We were told by the Hon. the Law Minister that this clause was necessary because in most of the cases the original tenants were not traceable.

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Mr. DINKERRAO N. DESAI: I did not say so.

Mr. ABDUL SATAR A. GANDHI : I have taken a note to that effect, but possibly I may be erring. Why is this provision sought to be brought in then? The tenant was so far enjoying the right to sub-let. Why should he not be allowed to do so? Why is Government now coming forward with a clause which says that the tenant shall not sub-let? It comes to this: that Government thinks that the tenants have taken undue advantage of the protection given to them. Agreed. What is the remedy? Government is simply shifting the evil from one class that deserves to another which does not deserve. Government now wants that the landlords should take advantage. Now, under the Transfer of Property Act, I have got the right to sub-let my premises unless there is a specific contract to the contrary. So, I have my own doubts regarding the legality of this clause. It is for the Legal Remembrancer to say that this clause, when it comes into operation, will be valid, notwithstanding the provision in the Transfer of Property Act, which gives me a statutory right to sub-let my premises. It is for him to say whether a provision of a special Act can undo or override the statutory provisions of a general Act as such unless the special Act specifically withdraws that part of the General Act. I admit I am a junior lawyer. I am not as senior as the Hon. the Law Minister, who has piloted this Bill. But that is what I feel.

Up to now, a tenant was allowed to sub-let his premises. Now, what are the circumstances which come into play to justify our laying down that the tenant shall not sub-let his premises. If the wording was "without the information of the landlord" we could have understood it. If I sub-let my premises, I should inform the landlord. That responsibility should be cast on me. But then to ask me not to sub-let without the consent of the landlord, would be unfair. That is putting only a double premium as I would put it on the incoming sub-tenant. So far the tenant was taking advantage. Agreed. He was taking the advantage; he was pocketing *pugree* and sub-letting his premises. Now, Government want that this *pugree* should go to the landlord. Now, the right of sub-letting will be that of the landlord. The tenant will have his own part; the landlord will have his part. We have actually seen cases where, as a matter of fact, the tenant as well as the landlord have taken *pugree*. But then the Hon. the Home Minister will say "You people are responsible for it". Agreed. We may be responsible, but then the actual state of affairs is this. If today I sub-let my premises by taking a *pugree*, still the landlord refuses to transfer the premises to the new tenant. The bill is not made out in his name, unless he pays some money to the landlord. So far, the tenant was getting a substantial portion of the *pugree*, and a minor portion thereof was going to the landlord. Now, by this provision only it will be in the reverse order. Sir, if we want to deal with this nefarious evil of *pugree*, we should adopt the suggestion that was put forward by the hon. Member Mr. Chandulal Parikh. At time he talks sense. He suggested that Government should set up

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some machinery by which all vacant premises will be registered with the Controller, and then it will be for Government to decide to whom to allot and to whom not to allot them. As a matter of fact, I have already sent an amendment to that effect:

Mr. DINKERRAO N. DESAI: It will come very soon.

Mr. ABDUL SATAR A. GANDHI: I thank the Hon. Minister for the assurance. But take care that the officers are not corrupt. Otherwise, the *pugree* will go into the pockets of the officers instead of those of the tenants and the landlords. Any way, I will not dilate on that point, but would simply appeal to the Hon. Minister to bring it early. I wish it were incorporated in this Bill. Kindly accept that amendment.

Sir, I shall now come to sub-clause (h) of clause 15. The wording here is "that the premises are reasonably and *bona fide* required by the landlord for occupation by himself or by his son or daughter over 21 years of age or by his father or mother." Now, "landlords", as defined in sub-clause (3) of clause 5 is anybody who is "receiving or entitled to receive rent in respect of any premises... etc." Now, suppose I am the landlord of a certain building and make a contract with another person for collecting rent. As the sub-clause stands at present, even the contractor will be entitled to have the premises for his daughter, or son or a father or mother etc. Is this the intention of the Government? I should doubt very much. Then again, I do not know why this limit of 21 years is put. My hon. Friend Mr. Chandulal Parikh said that now-a-days sons and daughters cannot live together. A preposterous suggestion. If sons and daughters, or members of the same family, cannot live together, I do not know who else will live together. This sub-clause means that if the landlord requires the place for his daughter or son or mother or father the tenant must go to hell, go to dogs, and they must be provided with a place because they are the choicest and the favoured few. We are told that a check is provided and the Controller will see the balance of convenience. I agree it is there. But then, after all the tenant will be at the mercy of the Controller. I do not think the tenant will be able to persuade or influence the Controller. It is the landlord who will try to prevail upon him. We know who can prevail upon a Government officer. The Rent Controller will be a very important authority now. I do not think this provision will operate fairly, so far as the tenant is concerned. Let some alternate premises be provided for the tenant who is to be ousted. I do not agree with my hon. Friend Mr. Chandulal Parikh that the landlord has a right to evict the tenant, and he may be allowed to do so. To a certain extent he may be right. He is one extreme, but the other extreme is also there;—I mean the hon. Member Mr. Dange. Unless some alternate accommodation is provided for the tenant, I do not think it will be fair to evict him.

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As regards the Explanation I had my doubts But I had a talk across the table with the Hon. the Law Minister, and I am satisfied to a certain extent. The doubt was about the words "whichever is later or". But the Law Minister told me that its interpretation would be this: If a certain building was purchased on 1st January 1947 by a certain individual he will not be entitled to oust the tenants who are on the premises before 1st January 1947. If that is the interpretation, the words "whichever is later" are confusing, and they may be a subject matter of interpretation by a court of law. I have my own doubts still.

I will now proceed to clause 17 (3). This says—

"If, after the tenant has delivered possession on or before the date specified in the certificate, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (2), the Controller may....."

My objection is to the word "may". The Controller *may* order the landlord to place the tenant in occupation of the premises. Why *may*? The Controller *shall* do it, not *may*. If we are really serious that the poor tenants who are ousted from the premises on the plea that some improvements are to be carried out should regain possession of the premises if the improvements are not carried out within the time stipulated, it is not enough if we merely provide for a right to then to approach the Controller. I as a tenant should have the right to approach the Controller, and the Controller, after making the necessary enquiries, *shall* reinstate me, not *may*. I would, therefore, solicit the attention of the Hon. Minister to this point. I maintain that this is a very serious matter, and if you provide that the Controller *may* reinstate me, I am sure that the provision will be exploited and misused. Put a mandatory obligation on the Controller that he shall reinstate me. Likewise, clause 18 which deals with the recovery of possession for occupation and reconstruction, etc., and re-entry, contains the word "may". Here also the word must be "shall". I hope this matter will receive its due consideration when the Bill is considered by the Select Committee.

One word about clause 25 regarding the prohibition of the conversion of residential into non-residential premises. We were told by the Hon Minister that the Bill prohibits the conversion of residential into non-residential premises. I beg to differ. I do not think there is any such prohibition. Sub-clause (2) says—

"A landlord who has obtained under clause (i) of sub-section (1) of section 15 a certificate that the premises are reasonably and *bona fide* required for the reconstruction of or for addition to an existing building shall not without permission in writing given by the Controller reconstruct or add to the building in such manner as to convert residential premises into non-residential premises."

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Therefore, the Bill does allow the conversion of residential into non-residential premises. But how?—with the permission of the Controller. If I find that I can get more rent by converting my ground-floor into a few garages, I go to the Controller and manage to get his permission, and the whole thing will be done. Moreover, I see there is some inconsistency. In one clause you say that if a landlord does not carry out the improvements or alterations for which he ousted a tenant, then the tenant can approach the Controller and the Controller may reinstate the tenant. In another clause you say that the Controller may allow the conversion of residential into non-residential premises. where is the consistency between the two? If the landlord has got the permission of the Controller to convert residential into non-residential premises, then how can the tenant come back? The whole structure would have been changed and the new structure would not be suitable for residential purposes. So, how can the tenant go there and live? I would, therefore, invite the attention of the Hon. Minister to this inconsistency and request him to see that it is done away with.

There is still much to be said, but I do not think it will be proper for me to take up any more time of the House. I see there are many more members who wish to speak on the Bill. It is the common experience of all of us that in the lanes and by-lanes and even on the main roads of Bombay, lakhs of people live without a roof above them. I would, therefore, urge on the Hon. Minister that it is time that the premises also are rationed. I hope that this will receive the earnest consideration of the Law Minister, the Home Minister and all the Ministers concerned, and that something will be done to mitigate the housing difficulty which now prevails. I do not think many more buildings will come into existence in a very short time. I have, therefore, suggested the only method which can mitigate the present-day hardship, and I hope that it will be accepted.

With these words, I support the Bill.

Mr. D. N. WANDREKAR (Bombay City North and Bombay Suburban District): Sir, I rise to support the first reading of the Bill. In doing so, I shall first take up one or two arguments advanced by the hon. Member from Surat (Mr. Gandhi). He said that the housing problem could not be solved unless rationing of premises was introduced. I do not know whether he has taken the trouble to find out what accommodation is available to us for rationing. He was laying great stress on the point that there were many premises which could be called luxury premises, having six rooms and over, and occupied by families of four or five members. In saying this he was relying on the Rent Enquiry Committee's report. That committee has,

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at page 101 of its report, given a table of the number of tenements according to rooms and the increase or decrease in the number of tenements over a period of years. The figures given in the report are based on the census taken from 1901 to 1931. The committee submitted its report in 1939. So, we have no figures relating to 1941. It will be found from the report that in 1901 there were, in round figures, 1,38,000 one-room tenements, which in 1931 had increased to 1,97,000. Coming to the tenements with six rooms and over, we find that in 1901 there were 2,550 such tenements which in 1931 had increased to 3,836. What I am driving at is that if there had been a consistent and proportionate increase in the number of tenements with six rooms and over, the argument which the hon. Member Mr. Gandhi advanced would perhaps have been worth considering. But the hon. Member has not taken into consideration the

6-00 p.m. magnitude of the problem depicted before us by speaker after speaker. The hon. Members, Mr. Shamsuddin and Mr. Karandikar have quoted figures about the increase in population during the last four or five decades. Sir, the Report from which I just quoted some figures, also gives the figures of increase in the population, and it is clear from the figures that the increase has been going on consistently for the last four or five decades. The influx of population from the rural areas to the urban areas has thus been going on on a progressive scale. During the war, many industries sprang up in urban areas attracting lakhs and lakhs of people from the rural areas to the cities. The population of Bombay in 1931 was 12 lakhs; in 1941, it increased to 14 lakhs and in the next four or five years, it increased to nearly 20 lakhs. To provide accommodation for this enormously increased population, the remedy is not, as was suggested by the hon. Member opposite, merely to displace the owners of six room or luxury tenements, as he called them. The remedy is something different. In 1938, Government appointed a Rent Inquiry Committee to find out whether any reduction in the then existing rents was called for, and if so, to what extent. The committee came to the conclusion that the question of rent was interlinked with that of accommodation. If housing accommodation has not increased in proportion to the increase in the population, then there is bound to be a scarcity of accommodation. During the war period and thereafter, due to non-availability of building materials, building activity has slowed down, whereas the influx of population to urban areas has been considerable. The problem of accommodation has, therefore, become very complex. Now the question is, how to provide accommodation for this huge population. Sir, one hon. Member asked why should not the Congress now try to achieve its aim of sending the people back to villages. I would say in reply that the Congress even now believes that the village should be the focal point of all its schemes for the betterment of the people. The Government has made the point clear while enunciating its policy underlying its five year plan. It said:

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"... The village will be the focal point of the plan and rural development will be pressed forward vigorously so as to provide the villagers with all the necessities, and as soon as practicable thereafter also with all the amenities of an enlightened and cultured social life."

People are at present flocking to cities and towns because of the several amenities of life available to them there as also because they get what is termed 'enlightened and cultured life'. If we succeed, as we hope to, and are determined to, in making available to the villages these amenities, then certainly the rush of population to urban areas will stop. Of course, this will take time. Till then, the problem of accommodation in urban areas has got to be tackled. That this Government has been wide awake to the problem, is very clear from the fact that, in 1938, it appointed a committee to go into the question of rent. Recently, the Greater Bombay Committee was appointed which in turn appointed a Greater Bombay Housing Panel to go into the question of housing accommodation. The Government is now actively considering the recommendations of both these committees. It has drawn up a programme in that connection, and has appointed a Provincial Housing Board. Government has set apart a huge sum of Rs. 5 crores for providing accommodation to the labouring classes. It should be noted that this sum is meant only for the working classes and not the middle classes, as the latter do not come under the category of labouring class. Government has also set up a Provincial Advisory Committee to help the Housing Board. This committee has drawn up a programme of provision of housing which has already been published. It is clear from all this, Sir, that the criticism levelled against the Government that it is handling the problem of accommodation in a halting manner has no foundation whatever.

Now, the measure before the House does not seek to expand the housing accommodation. It seeks to continue the control over house rents. There is already in force legislation in this regard, but it has been found to be insufficient to meet the needs of the situation. The present Bill has, therefore, been brought in for certain modifications in the existing law. There are no doubt certain provisions which may appear as favouring the landlords, as has been pointed out by some of the hon. Members on the opposite side. But this is not so in fact. Even the basis of this Act, like that of the Tenancy Act, is to provide all benefits to the tenants and this will be corroborated by some of the latest pronouncements of responsible persons on the Government side. For instance, the Hon. the Minister for Labour and Housing has already made known Government's policy in regard to housing. I may just be permitted to quote a few sentences from his speech to the Housing Advisory Committee four or five months ago :

"One of the most remarkable facts brought out by successive censuses in recent years is the increase in the population of our cities. While there were only 35 cities with 100,000 inhabitants in this country in 1931, there are now 58 of them and the cities have been rapidly growing in size owing to a steady influx of population. This tendency is nowhere so evident as in the Province. This gravitation of rural population unaccompanied by

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a commensurate effort to provide a satisfactory physical environment for the city dwellers has in past years, given rise to scandalous conditions for which there can hardly be any excuse or justification. The virtual stoppage of all building activity during the war period has further aggravated the situation."

Later on he has said :

"In these days when we are suffering from shortages of all kinds, increased production is the first essential. It is beyond doubt that our productive effort in urban areas is hampered to a considerable extent on account of bad and insufficient housing. We can very well appreciate the sense of urgency which is being expressed by the people in several countries in assigning the highest priority to housing programme and in applying to their execution vast sums of money. It cannot be questioned that next to food the greatest discontent of the people in towns is born of the hardships experienced by them in the matter of housing. In the conditions which prevail, housing must be accepted as a public utility of high order,

Housing is not left to the mercy of private enterprise ; it has been accepted as a public utility of a high order.

"responsibility for which cannot be left to individual action or private initiative when they show no sign or possibility of operating effectively.

From this it will be clear how the problem is before this Government and how it is trying to tackle it. Of course, it will take some time, but, as pointed out by the Hon. the Minister for Local Self-Government, we cannot afford to be impatient. After all, the problem is such that it requires a good deal of planning and thinking. It cannot be said that all this organisation can be set up within a very short time. We, however, have instances of other countries before us. We have now got information about housing, for instance, on a large scale in the United States, in England or in other Western countries. It will have to be examined whether we can adopt their methods. It will have also to be seen whether we can have pre-fabricated buildings. These are all questions to be considered, because after all, if the materials which we have been using so long, such as cement, bricks, stones or steel for reinforcements are not available in sufficient quantity, then certainly we shall have to find out some other substitute materials. We will also have to expedite the speed of our housing programme. All these things are before the Government, and this problem will be solved at a very high level and in as short a time as possible by Government. There are impediments everywhere, and I am sorry to remark that the hon. Member Mr. Dange—he is not here just now—who has been taking us to task in season and out of season for some reason or the other—imaginary or real, it really does not matter much—has been largely responsible. As pointed out by one of the hon. Members from this side, Mr. Dange himself and his Party have been trying to put all sorts of impediments in the way. Mr. Dange also said that Government must expedite all its important programmes in relation to food, cloth, housing, and so on, but, at the same time, he has been raising all sorts of difficulties in their implementation. We have seen how many strikes have taken place since this Government took charge and how the whole programme of Government, whether in the matter of rural.

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development or in the matter of urban development, has been obstructed. We also know how Government have had to divert its energies in the direction of maintaining law and order. We have been doing that not only in towns, like Bombay and Ahmedabad, but also in rural areas. For instance, we know how the forest tribes, Warlis, were instigated to commit all sorts of crimes. I wish the hon. Member Mr. Dange was here to hear all this.

The hon. Member Mr. Shamsuddin has called this Bill a halting measure. I wish he had suggested what type of measure he exactly wanted. He has, at the same time, made certain admissions. What he said was that it was wrong to fix the rents on the basis of 1940, when the Bombay Rent Restriction Act was in force. His objection is that the rents prevailing in 1940 were unfair so far as the tenants were concerned, but he conveniently forgets that as there was the Act of 1939 prevailing at that time most of the rents were fixed under it. He also admitted that the income of every body has gone up considerably between 1940 and 1947. We have got the figures of the index of incomes and rents from time to time. I do not, therefore, think that fixing the rents on September 1940 basis is going to affect the tenants adversely. As I have already said, we are certainly for safeguarding the interests of the tenants. In 1940, although the war had started, conditions had not become so abnormal as to enhance the price of all things. So, the basis that we have taken is, I think, quite just and fair. What he said was that, so far as rent was concerned, it should be based on a certain percentage. It is there that the real trouble arises. So far as new premises are concerned, the cost of building will be much higher as compared with that of 1939 and 1940. The cost of building materials has jumped up enormously and if we are to calculate on the basis of a return at so much per cent., then the rent as compared with that of 1940 will be equally enormous. There will be a big difference between the rents of 1940 and of 1947. Our whole idea is to see that even these buildings, when rented, should be available at a rental quite reasonable and beneficial to the tenants. This point was also touched upon in the Rent Enquiry Committee's report in 1938. There the question was discussed as to whether the rent to be fixed should be on the basis of a return on the capital invested, or whether it should be in proportion to the income of the tenant. The Committee's recommendation was that return should not be the basis, and that is why we have here got a provision giving powers to the Controller to decide the figure of rent at a fair and equitable rate.

The other question that was discussed was about the so-called benefits given to the landlords under this clause. Criticism has been levelled that this Government is inclined to be equitable both to the landlords and the tenants. That is correct. We want to be fair to the landlords as well as to the tenants. But what is fairness in the

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case of the landlords has also got to be seen. We certainly want to curb all the tendencies on the part of the landlords not only to increase the rent but also to recover all sorts of extra-legal exactions from the tenants. We shall take care to see that the landlords do not so harass their tenants that they may ultimately be forced either to leave the premises or pay higher rents than are allowed under this Bill. It will be found that, so far as this Bill is concerned, there are penalties provided for all these illegalities, penalties of imprisonment, fine and even confiscation of property in certain cases. From this it will be clear that we do not look upon the landlord-class with any favour. On the contrary, we want to see that the landlord class does its duties, so far as the tenants are concerned. Those duties are prescribed under the law. Responsibilities have been put on the landlords, and they have got to be carried out by them. If they fail to do so, then there are certain measures provided in this Bill to ensure that justice is done to the tenants. From this, it will be clear that criticisms to the effect that this Bill favours the landlord class does not hold good.

I won't refer to the criticisms levelled by the hon. Member, Mr. Dange, as they have been answered by the Hon. Minister for Local Self-government; but the only thing that I would like to remark about him is that he has got no constructive criticism to offer. Sir, I have done.

Mr. G. H. DESHPANDE (Nasik West): अध्यक्ष महाराज, या सभागृहापुढे असलेल्या विलाच्या पहिल्या वाचनाला पाठिवा देण्यासाठी मी उभा आहे. या विलावर विरुद्ध पक्षाच्या सभासदांनी जी भाषणे केली व जी टीका केली त्यांत दोन गोष्टी प्रामुख्याने आढळून येतात. पहिली गोष्ट अशी की, राहण्याच्या घरांची जी टंचाई आहे ती कमी करण्याचा प्रयत्न या विलाने झालेला नाही, व दुसरी गोष्ट म्हणजे हे विल भाडेकरूंच्या बाजूचे नसून घरमालकांच्या बाजूचे आहे. या बाबतीत मी असे सांगू इच्छितो की आपल्या संबंध इलाख्यांत राहण्याच्या घरांची जी टंचाई आहे ती सर्वस्वी नाहीशी करणे हा या विलाचा मुळांत हेतू नाही. आतांच सन्माननीय सभासद श्री. वांदेकर यांनी हा प्रश्न सोडविण्याच्या दृष्टीने सरकारकडून आजपर्यंत झालेल्या प्रयत्नांची सविस्तर हकीकत सांगतली आहे. तेव्हा त्या प्रश्नाकडे मी आता वळत नाही. पण अध्यक्ष महाराज, मी एक गोष्ट सभागृहाच्या नजरेस आणू इच्छितो ती ही की, जर राहण्याच्या घरांची अडचण पूर्णत्वाने नाहीशी करण्याचा या विलाचा हेतूच नाही तर ती गोष्ट या विलाने साध्य होणार नाही अशी टीका करण्यांत तरी काय अर्थ आहे? कारण तसा दावा या विलाने केलेलाच नाही. हे विल पास

[Mr. G. H. Deshpande]

झाल्यानंतर खूप घरे तयार होतील असे सरकारला मुळीच भ्रूणवयाचे नाही. त्या दृष्टीने खाजगी रीतीने कांहीं प्रयत्न चालू आहेत, पण त्यांची चर्चा आपण या सभागृहात करित नाही.

दुसरी अशी एक टीका केली जाते कीं जें बिल आहे त्यांत घरमालकांना वाजवीपेक्षा जास्त सवलती देण्यांत आल्या आहेत. कांहीं विशिष्ट परिस्थितींत भाड्याची वाढ करण आणि भाडेकऱ्यांकडून जागा खाली करून मागणें या दोन कायदेशीर सवलती या बिलानें घरमालकांना दिल्या आहेत ही गोष्ट खरी आहे. पण याच्या पाठीमागचा उद्देश लक्षांत न घेतां असा कांगावा करण्यांत आला कीं पहा, मुंबईला फूटपाथवर लाखों लोक पडलेले आहेत, पण त्यांचा विचार न करतांना सरकार घरमालकांना अधिक सवलती देत आहे. मुंबईला गोरगरिबांची राहण्याची अडचण आहे ही गोष्ट सर्वांना माहित आहे आणि ती गोष्ट लक्षांत घेऊन परिस्थिति सुधारण्याचा प्रयत्न सरकार करित आहे ही गोष्ट आपण विसरतां कामा नये. सन्माननीय सभासद श्री. गांधी यांनीं सांगितलें कीं, श्री. पारेख हे १०-२० गाळ्यांच्या जागेत राहत असतांना फूटपाथवर पडलेल्या बिचाऱ्या गरिबांची दखल घेतली जात नाही. पण त्यांना मी असे विचारतो कीं, ते स्वतः आपल्या मालकीच्या मोटरींतून नेहमीं फिरतात व याच्या उलट लाखों लोक पायानें चालत आहेत व शेतकरी वर्गाला तर बैलगाडी शिवाय दुसरे प्रवासाचें साधनहि नाही हें त्यांना माहित असूनहि वर्षातून चार महिने आपली मोटार गरीब लोकांनीं वापरावी आणि बाकीचे आठ महिने त्यांनीं वापरावी असे त्यांच्या मनांत कधीं आलें आहे काय ? सन्माननीय सभासद श्री. गांधींची गोष्ट सोडली तरी सन्माननीय सभासद श्री. डांगे हे सर्व सोयींनी सुसज्ज अशा जागेत रहातात, पण फूटपाथवर निजजाण्या लोकांनीं आपल्या जागेत चार महिने रहावे व आपण आठ महिने फूटपाथवर आयुष्य घालवावे असा विचार त्यांच्या मनांत अजून कधीं आला नाहीं. त्यांनीं असें केलें असतें तर त्यांच्या आड कोणी आलें असतें असें मला वाटत नाहीं. आपण ज्या तऱ्हेच्या जागेत राहतो तशा जागेत राहण्याची किती थोड्या लोकांची ऐपत आहे याचा त्यांनीं कधीं विचार केला आहे काय ? तेव्हां त्यांना मला असें सांगावयाचें आहे कीं, गरिबांची कळकळ सर्वांना आहे, पण कांहीं लोक त्याचें प्रदर्शन भाषणांतून करित नाहींत व कांहीं लोक करतात एवढाच फरक. गरिबांच्याविषयीं कळकळ आहे किंवा नाहीं हें आपल्या कृतीनें दाखवावयाचें असतें. इलाख्यांतील सर्व घरमालक तेवढे दानव आणि भाडोत्री तेवढे संत आहेत असें मानण्याची कांहीं जरूर नाहीं.

[Mr. G. H. Deshpande]

आतां या सभागृहामध्ये घरमालकांला लॅन्डलॉर्ड असें संबोधण्यांत आलें तें बरोबर नाहीं असें मला वाटतें. ज्यांचीं घरे पडायला झालीं आहेत व दुकस्ती करण्याची ऐपत नाहीं असें किती तरी घरमालक ठिकठिकाणीं आहेत. मुंबईचे घरमालक सोडले तर नाशिकसारख्या ठिकाणीं अशीं पुष्कळ उदाहरणें सांपडतील कीं, ज्यांनीं एका गाळ्यांत आपण स्वतः राहून बाकीचें घर भाड्याने दिलेलें आहे व त्याशिवाय त्यांना उपजीविकेचें दुसरें साधन नाहीं. अशा घरमालकांना जर समर्थ बनविलें नाहीं तर समाजाच्या दृष्टीनें सरकार दोषी ठरेल. घरे कांहीं आकाशांतून पडणार नाहींत, पण आज जीं कांहीं घरे उभीं आहेत त्यांच्या मालकांना सरकारनें जर कांहीं न्याय्य सवलती दिल्या तर त्यामुळे सरकारनें घरमालकांची बाजू उचलून धरली असें म्हणतां येणार नाहीं.

अध्यक्ष महाराज, दुसरी एक गोष्ट मी सभागृहाच्या नजरेस आणूं इच्छितो ती ही कीं, ज्या गतभर्तृका असून आपल्या मुलाचें शिक्षण चालवून तो मोठा होऊन आपला संसार करावयास लागेल अशा आशेंत जीवन कसेबसें घालवीत आहेत अशा कितीतरी छिया घरमालक आहेत. त्यांना भाडें वाढविण्याच्या बाबतींत जर सवलत दिली तर त्यांत काय अन्याय होतो हे मला समजत नाहीं. सगळेच घरमालक पैसेवाले आहेत अशी समजूत करून न घेतां जरा दूर दृष्टीनें या प्रश्नाकडे पाहिलें पाहिजे.

कांहीं ठिकाणीं लहानसहान दुकानांचीं भाडीं पांच पटीनें आणि दहा पटींनीं वाढविण्यांत आलीं आहेत हे पुष्कळांना माहीत आहे. अशा दुकानदारांनाहि या कायद्याचा फायदा मिळेल अशी तरतूद या बिलांत करण्यांत आली आहे असें मला वाटतें. मी असें म्हणून कीं, जे सधन आणि श्रीमंत घरमालक आहेत त्यांना या सवलती मिळाल्या नाहींत तरी मला वाईट वाटणार नाहीं. पण सगळ्याच घरमालकांना वाईट ठरवून त्यांच्याबरोबर मी वर उदाहरण दिलेल्या घरमालकांनाहि झोडपून काढणें योग्य होणार नाहीं. आपण ज्यावेळीं भाडें नियंत्रणाचा विचार करतो आणि कायदा सर्व इलाख्याला लागू करणार आहोंत त्यावेळीं सर्व इलाख्याची परिस्थिति नजरेसमोर ठेवणें अत्यंत जरूरीचें आहे. या दृष्टीनें पाहिलें म्हणजे विशिष्ट परिस्थितींत भाड्याची वाढ करणें आणि भाडेकन्याला जागा खाली करून देण्यास लावणें या सवलती घरमालकांला दिल्या याचा अर्थ या बिलानें घरमालकांचें समर्थन केलें असा करणें बरोबर नाहीं. उलट अशा सवलती दिल्या नसत्या तर त्यांच्यावर अन्याय झाला असता असें मी म्हणून.

[Mr. G. H. Deshpande]

सन्माननीय सभासद श्री. शमसुद्दिन यांनी आपल्या भाषणांत असें सुचविलें कीं १९३७ सालीं जीं भाडी होती त्यापेक्षां आतां भाडी कमी केली पाहिजेत. पण मी त्यांना असें विचारतो कीं सरकारी नोकरांना १९३७ सालीं जे पगार होते तेच आज १९४७ सालांत त्यांना अहित काय ? व्यापारी लोकांचे जमाखर्च पाहिले तर १९३७ सालांत त्यांचे जे उत्पन्न होते तेच आज अहित काय ? तेव्हां १९३७ साल आणि १९४७ साल यांत महदंतर असतांना ज्या घरमालकांनीं इतके दिवस मिळत असलेल्या भाड्यावरच आपल्या उपजीविकेसाठीं अवलंबून रहावे लागले त्यांना आपण सांगितलें कीं तुम्हांला कांहीं जास्त मिळणार नाही तर तें न्यायाचें होणार नाही. या दृष्टीनें जर आपण वेचार केला तर आपल्याला असें दिसून येईल कीं हा जो कायदा आहे त्यांत पूर्वीच्या कायद्यापेक्षां घरमालकाच्या बाबतींत जास्त कडकपणाचें धोरण स्वीकारलेलें आहे. एकाद्या घरमालकानें पागडी घेतली, किंवा फसवेगिरीनें भाडेकन्यापासून जास्त भाडें घेतलें तर त्याला शासन होणार आहे. या कायद्याचें योग्य वर्णन करावयाचें झालें तर मी असें करीन कीं या बिलांत भाडेकन्यांना अधिक सवलती देऊन घरमालकावर अधिक नियंत्रणें घालण्यांत आली आहेत, जीं नियंत्रणें मालकांवर घातली आहेत व सवलती दिल्या गेल्या आहेत त्या सर्वस्वी भाडेकन्यांच्या हितासाठींच घातलेल्या आहेत, व घरमालक केवळ मिरासदार आहेत या भावनेनें नाही हें आपण लक्षांत ठेवले पाहिजे. एवढें बोलून मी आपलें भाषण पुरें करतो.

Mr. A. A. GHEEWALE (Belgaum District) :

مسٹر ایس۔ ایس۔ گھی والے : جناب صدر۔ جو ہل انکوائری  
بیش ہے مجھے اپنے متعلق چند suggestions پیش کرنے ہیں۔ پہلا  
suggestion میرا یہ ہے کہ کرایہ ٹھیرانا یا مکان کو توڑ کر بھر بیچ  
ایسا مکان بنوانا اور اسکا کرایہ ٹھیرانا ایسی جو چیزیں ہیں وہ میری  
رائے میں ایک کمیٹی کے ماتحت طے کی جائیں تاکہ غیر انصافی  
نہ ہونے پائے۔ کیونکہ یہ کام ایک آدمی کو سپرد کرنے سے  
ممکن ہے لوگوں کو شک ہو جائے کہ اس کو کسی نے influence  
کیا ہے۔ چھپا کہ آرہیل ممبر کونڈیکر صاحب نے کہا تھا کہ  
civil justice میں خود بہت غیر انصافی ہوتی ہے۔ اسی لئے میں

[Mr. A. A. Gheewale]

ہم suggestion کرتا ہوں کہ کرایہ بڑھانے کے لئے یا نئے مکانات بنوا کر ان کا کرایہ ٹھہرانے کے لئے ایک کمیٹی بنائی جائے۔ اس کمیٹی میں رینٹ کنٹرولر صاحب ہوں میونسپلٹی کے کمشنر یا چیف آفیسر ہوں اور اس طرح سے تین آدمیوں کی کمیٹی بنے جس کے ماتحت ہم کام سپرد کیا جائے کہ وہ کرایہ وغیرہ مکانوں کا ٹھہرائے۔ اگر ہم دو چیزیں کمیٹی کے ماتحت دیدی جائیں تو کسی کو کوئی اعتراض نہ ہوگا۔ اور پھر کسی کو یہ بھی خیال نہیں رہے گا کہ ایک تو آدمی ہے اس کو روپیہ دیکر influence کیا گیا یا controller کو influence کیا گیا۔ اس طرح سے کمیٹی کے ذریعہ کام کرنے سے administration ٹھیک رہیگا۔

اس بل میں ایک suggestion تو میرا کمیٹی کے قیام کے متعلق ہے اور دوسری جو بڑی چیز مجھے کہنا ہے وہ ہوٹلوں کے بارے میں ہے۔ سنہ ۱۹۳۹ء میں ہوٹلوں کے لئے standard rates مقرر کئے گئے تھے۔ اس میں بہت سی غلط فہمی ہو گئی کیونکہ اس وقت ہوٹلوں کے جو درمقرر کئے گئے تھے وہ اس وقت کے لحاظ سے تھے۔ اس وقت ہوٹل والوں نے کہا ہے کہ جو lists دکھائی تھیں وہ ایسی تھیں جن پر ہوٹل کے rates زیادہ رکھے گئے تھے اور اس کے ساتھ ہی رہنے کے بھی rates زیادہ رکھے گئے تھے۔ اس طرح سے دونوں کو ملا کر ہوٹل والے ابھی تک خوب فائدہ اٹھاتے رہے ہیں۔ ممبئی میں Marine Drive پر جو ہوٹل ہیں ان میں اور دوسرے ہوٹلوں میں ایک ایک seat کا کھانا دس دس دس بارہ بارہ روپیہ rate ہے لیکن اگر کھانا دیکھئے تو حالت یہ ہے کہ کھانے کی list تو بہت بڑی اور اچھی ہوئی ہے لیکن کھانا بہت ordinary ہوتا ہے۔ اس کے معنی یہ ہیں کہ اگر کوئی ہوٹل والا بارہ روپیہ یا تیرہ روپیہ روز کے لیتا

[Mr A. A. Gheewale]

ہے تو کھانے کے تو صرف دو یا تین روپیہ ہوئے باقی دس روپیہ روز تو صرف ایک سیٹ کے charge کرتا ہے۔ اس طرح سے اگر اس کے پاس ۲۰ سیٹس ہوں تو اسے اس سے چھ ہزار روپیہ مہینے کے آمدنی ہوتی ہے۔ اگر کہیں اس کے پاس پانچ مالے ہوئے تو اسے تیس ہزار روپیہ کی آمدنی صرف seats کی ہوگی۔ کوئی rooms تو آجکل خالی رہتے نہیں اس لئے انکو اور زیادہ آمدنی ہے۔ اس لئے میں suggest کرونگا کہ جب ہوٹلوں کے rates مقرر کئے جائیں تو کھانے کے rates الگ اور رہنے کی جگہ کے rates یا charges الگ رکھے جائیں۔ اس سے ہوٹل والے، بیجا فائدہ نہ اٹھا سکیں گے۔ انہوں نے اب تک بہت کافی فائدہ اٹھایا ہے کیونکہ جیسا کہ میں آپ کے سامنے رکھ چکا ہوں کہ وہ بہانے کے rates سے ہوٹل کے charges لیتے ہیں اور وہ rates کھانے کی lists کو سامنے رکھ کر بناتے گئے تھے۔ اس وقت کی ان کی understanding دوسری تھی جس کے مطابق rates رکھے گئے تھے اس لئے ہوٹل والوں کو بہت فائدہ ہوا۔ اگر اب کھانے کے rates الگ اور رہنے کے rates الگ مقرر کئے جائیں گے تو لوگ سمجھ سکیں گے کہ اس ہوٹل میں کھانا ایسا ہے اور رہنے کی جگہ ایسی ہے۔ اس لئے کھانے کے rates الگ اور رہنے کے charges الگ رکھنا چاہئے۔ اگر آپ یہ سمجھیں کہ passengers جو ہیں وہ ہوٹل والوں کی شکایت controller کو لکھیں گے تو یہ نہ ہوگا وہ controller کے پاس شکایت نہیں بھیجیں گے کیونکہ انہیں زیادہ دق وہاں رہنا نہیں ہے۔ اس لئے میں suggest کرتا ہوں کہ جہاں تک ہو سکے اسے rates ہوٹلوں کے مقرر کئے جائیں کہ جس سے جو بہت بڑی غیر انصافی ابھی تک passengers کے ساتھ ہوتی رہی ہے وہ دور ہو سکے۔

[Mr. A. A. Gheewale]

دوسری بات یہ ہے کہ ایک چیز اس بل میں یہ دی گئی ہے کہ owners یا landlords اگر بھاڑے سے زیادہ ہیس کسی نہ کسی وجہ سے ہگڑی کی طرح سے لے لیں تو clause 15 کے مطابق اسکے لئے تین طرح کی سزا رکھی گئی ہے۔ ایک تو چھ مہینے کی قید دوسرے جتنا ہیس لیا ہے اس سے زیادہ جرمانہ اور تیسرے یہ کہ اس کی property ضبط کی جائیگی۔ تین میں سے کہنا چاہتا ہوں کہ یہ پوری سزا یعنی property ضبط کرنے کی بہت غیر انصافی کی ہے۔ property ضبط کرنے کے بجائے سزا کی معیاد بڑھا دیں تو یہ ٹھیک بات ہوگی۔ لیکن اگر منیجر نے یا کسی اور نے کوئی غلطی کی اور بھاڑے سے زیادہ ہیس لیا تو landlord کی property ضبط کر لی جائے یہ بہت سخت قانون ہوگا۔ اس لئے چاہے سزا کی معیاد بڑھا کر چھ مہینے کے بجائے دو سال کر دی جائے لیکن property کو ضبط کرنے کی سزا بل سے کال دی جانا چاہئے۔ ساتھ ہی اس کے fine کی معیاد بھی مقرر کر دینا چاہئے کیونکہ جب ہم قانون بناتے ہیں تو اس کے اندر یہ سب چیزیں درج ہونا چاہئے تاکہ کسی کے ساتھ غیر انصافی نہ ہو۔ جب ہم اس بل کی طرف attention دیتے ہیں تو ہر نقطہ نظر سے اسے دیکھنا چاہئے۔ اور ہر ایک چیز کی limit مقرر کر دینا چاہئے۔ کہیں ایسا نہ ہو کہ کسی landlord کو معمولی گناہ کے لئے ۱۰ ہزار ۲۰ ہزار روپیہ fine کر دئے جائیں۔ کہنے کا مطلب یہ ہے کہ معمولی گناہ کے لئے کسی landlord کی property ضبط کرنے سے اس کی پوری اولاد تک کو اس کی property سے محروم کرنا ہوگا۔ اس میں مجھے امید ہے کہ یہ بل Select Committee میں جارہا

[Mr. A. A. Gheewale]

”ہم - وہاں ہر مجھے کچھ کہنے کا موقع ملیگا اور اس میں میرے  
جو اعتراضات ہیں ان پر کمیٹی غور کریگی اور ان کو دور کرنے  
کی کوشش کریگی ایسی میں امید کرتا ہوں - ان الفاظ کے ساتھ  
میں بل کو support کرتا ہوں -

Mr. R. A. KHEDGIKAR (Railway Unions): Sir, I rise to support the first reading of the Bill. This is new measure. Of course, some of the sections of the existing Bombay Rent Restriction Act of 1939 have been retained, but the object of the 1939 Act was quite different from that of the Bill which is now introduced. The object of the present Bill is to restrict or control the rents, necessitated by a scarcity of houses, whereas the 1939 Act was an Act to restrict the increase in rents of certain premises in consequence of the levy of the urban immovable property tax in the Province of Bombay.

Sir, there have been arguments, and very interesting too, by several hon. Members. One argument was from my hon. Friend Mr. Dange, who is not here at present. I am not going to refer to it, but I shall leave it by just stating that it was advanced from the point of view of Communist ideologies. There was also another interesting plea from my hon. Friend Mr. Parikh, and that was advanced from a capitalistic point of view. He has been already replied, and I am not going to touch his points, but what he said was an insult to this House and particularly to this Government. He said that the rent should be increased, and this increased rent should be shared between the landlords and the Government. That was a profit-sharing scheme. The very principle of this Act is to restrict the raising of rents, and I am very thankful, not only to this Government but also to the section 93 Government, for not effecting any increase on this particular item all these seven years. If this Act was not there, what would have happened? We know that the prices of every commodity have gone up by 400 to 500 per cent. and the same would have been the case with rents. It was argued by some hon. Members that, when dearness allowance has been increased, why not increase the rents, but they forget that increased dearness allowance does not take into consideration increased rents. My hon. Friend Mr. Parikh knows it very well. If Government had taken similar measures for controlling the prices of other commodities and other necessities of life, the question of increased dearness allowance would not have arisen; but unfortunately that was not done.

Now, Sir, referring to this Bill, much criticism has been advanced by the capitalists on one side and by hon. Friends on the opposite side. The Bill does not allow increase in the rent as it existed on 1st of March 1940, whereas the existing Act of 1939 wanted to restrict the rent

[Mr. R. A. Khedgikar]

as it existed on the 1st January of 1939. I do not know why a grace of one year is given in this proposed Bill. It may be because Government thinks that in the period 1939-40, on account of this Act, there may not be any increase in the rent, and possibly it may be true.

Before I come to the Bill again, I have to refer to my hon. Friend Mr. Shamsuddin. He said that this Bill was a temporary measure and asked why it should not be made permanent, in view of the fact that this scarcity is going to remain for a number of years. But does he think that the question will be solved by making this Bill a permanent Act? Does he think that the control of rent is the real remedy for providing adequate housing? Sir, the report of the Housing Panel appointed in connection with the Greater Bombay Scheme provides the answer. I am not going to read it at length, but it contains the following passage :—

"When the Rent Inquiry Committee appointed by Government in 1938 made its report regarding restricting the increase of rents in the City, they stated that at best the restriction of rent was a poor palliative, that what was needed most urgently was the provision of adequate, satisfactory and cheap dwellings for the people."

So, the Government has rightly thought it to be a temporary measure. In the first instance, it is to remain in force for two years, and, if necessary, it will be extended for a further period of two years, and I have no doubt that, if the same conditions prevail even after four years, Government will not hesitate to extend it still further. I can give this assurance to hon. Friend who is not here.

Sir, the Bill is brought forward as a temporary measure, just to protect the tenant from increased rent being levied by the landlord.

*The House was adjourned at 7 p.m. till 2 p.m. on Monday, the 13th October 1947.*



# The Bombay Government Gazette

PUBLISHED BY AUTHORITY

TUESDAY, 30TH SEPTEMBER 1947.

... giving his given to this Part in order that it may be filed as a separate compilation.

## PART V

[To be translated into Marathi, Gujarati, Kannada and Hindustani (in Urdu and Devnagari scripts) and the translations to be published in the "Bombay Government Gazette". The dates of publication to be reported.]

The following Bill is published under the proviso to rule 80 of the Bombay Legislative Assembly Rules:—

### L. A. BILL No. LIII OF 1947.

*A Bill to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions.*

WHEREAS it is expedient to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions; It is hereby enacted as follows:—

#### PART I.

##### *Preliminary.*

1. This Act may be called the Bombay Rents, Hotel and Short title. Lodging House Rates Control Act, 1947.

2. (1) Parts I and IV of this Act shall extend to the whole Extent. of the Province of Bombay.

(2) Parts II and III shall extend respectively to the areas specified in Schedules I and II to this Act and shall continue to extend to any such area notwithstanding that the area ceases to be of the description therein specified.

(3) The Provincial Government may, by notification in the Official Gazette, extend to any other area Part II or Part III or both.

(4) The Provincial Government may, at any time by like notification direct that Part II or Part III or both, as the case may be, shall cease to extend to such area and on such date as may be specified in the notification; and on that date the Part or Parts shall cease to be in force in such area.

**Commencement and duration.**

3. (1) This Act shall come into operation on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

(2) It shall remain in force upto and inclusive of the 31st day of March 1950 :

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period not exceeding two years.

(3) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act or upon this Act or any Part thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act.

**Application of the Act to the Government.**

4. This Act shall not apply to any premises belonging to the Government or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government.

**Definitions.**

5. In this Act unless there is anything repugnant to the subject or context—

(1) "fair rate" means the rate fixed under section 26 and includes the rate as revised under section 27;

(2) "hotel or lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration;

(3) "landlord" means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person not being a tenant who from time to time derives title under a landlord; and further includes in respect of his sub-tenant a tenant who has sub-let any premises;

(4) "legal representative" means a legal representative as defined in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which a deceased person was a member;

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(5) "manager of a hotel" includes any person in charge of the management of a hotel;

(6) "owner of a lodging house" includes any person who receives or is entitled to receive, whether on his own account or on behalf of himself and others or as an agent or trustee, any monetary consideration from any person on account of board, lodging or other service;

(7) "permitted increase" means an increase in rent permitted under the provisions of this Act;

(8) "premises" means—

(a) any land not being used for agricultural purposes,

(b) any building or part of a building let separately (other than a farm building) including—

(i) the garden, grounds, garages and outhouses, if any, appurtenant to such building or part of a building,

(ii) any furniture supplied by the landlord for use in such building or part of a building,

(iii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house;

(9) "prescribe" means prescribe by rules;

(10) "standard rent" in relation to any premises means—

(a) where the standard rent is fixed under the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, such standard rent; or

(b) where the standard rent is not so fixed—

(i) the rent at which the premises were let on the first day of September 1940, or

(ii) where they were not let on the first day of September 1940, the rent at which they were last let before that day, or

(iii) where they were first let after the first day of September 1940, the rent at which they were first let, or

(iv) in any of the cases specified in section 13, the rent fixed by the Controller;

(11) "tenant" means any person by whom or on whose account rent is payable for any premises and includes—

(a) a sub-tenant and any person from time to time deriving title under a tenant,

(b) any person remaining, after the determination, of the lease, in possession, with or without the assent of the landlord, of the premises leased to such person or his predecessor-in-title,

(c) any member of the tenant's family residing with him at the time of his death as may be decided in default of agreement by the Controller,

(d) if there is no such member, any other person residing with the tenant at the time of his death who used to pay part of the rent payable to the landlord.

Appointment  
of Controller.

6. (1) The Provincial Government may, by notification in the *Official Gazette*, appoint a person who holds or has held a judicial office not inferior to that of a Civil Judge or a judge of a Small Cause Court to be a Controller for the purposes of this Act or any Part thereof.

(2) The Provincial Government may appoint for any area one or more such Controllers.

## PART II.

### *Residential and other premises.*

Application.

7. (1) In areas described in Schedule I, this Part shall apply to premises let for residence, education, business, trade, storage or any other purpose notified in the *Official Gazette* by the Provincial Government.

(2) In areas to which this Part is extended under sub-section (3) of section 2, it shall apply to premises let for such of the purposes referred to in, or notified under, sub-section (1) or let for such standard rent as the Provincial Government may, by notification in the *Official Gazette*, specify.

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8. Except where the rent is liable to periodical increment by virtue of an agreement entered into before the first day of September 1940, it shall not be lawful to claim or receive on account of rent for any premises any increase above the standard rent, unless the landlord was, before the coming into operation of this Act, entitled to recover such increase under the provisions of the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, or is entitled to recover such increase under the provisions of this Act. Rent in excess of standard rent illegal.

9. (1) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not. Cases where rent to be deemed and not to be deemed to be increased.

(2) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.

10. Where a landlord after the coming into operation of this Act incurs expenditure on any reasonable improvement or structural alteration of any premises (not including expenditure on decoration or ordinary repairs), he shall be entitled to make an increase in the rent of the premises at a rate not exceeding six per cent. per annum on the amount so expended and such increase shall not be deemed to be an increase for the purposes of section 8. Increase rent on account improvement, etc., excepted.

11. Where a landlord is required to pay to a local authority in respect of any premises any rate, cess or tax imposed or levied for the purposes of such authority, he shall be entitled to make an increase in the rent of the premises by an amount not exceeding the increase paid by him in such rate, cess or tax in the period of assessment which included the date of the coming into operation of this Act, and such increase in rent shall not be deemed to be an increase for the purposes of section 8. Increase in rent on account of payment of rates, etc., excepted.

12. (1) Notwithstanding anything contained in any law for the time being in force or any contract, custom or local usage to the contrary, rent payable by the month or year or portion of a year shall be recovered according to the British calendar. Recovery of rent according to British calendar.

(2) The Provincial Government may prescribe the manner in which rent recoverable according to any other calendar before the coming into operation of this Act shall be calculated and

charged in terms of the British calendar and any increase made in accordance with the rules shall not be deemed to be an increase for the purposes of section 8.

Controller may fix standard rent and permitted increases in certain cases.

13. (1) In any of the following cases the Controller may fix the standard rent at such amount as, having regard to the provisions of this Act and the circumstances of the case, he deems just—

(a) where any premises are first let after the first day of September 1940, and the rent at which they are so let is in the opinion of the Controller excessive or inadequate; or

(b) where the Controller is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (10) of section 5; or

(c) where by reason of the premises having been let at one time as a whole or in parts and at another time in parts or as a whole, or for any other reason, any difficulty arises in giving effect to this Part; or

(d) where there is any dispute between the landlord and the tenant regarding the amount of standard rent.

(2) If there is any dispute between the landlord and the tenant regarding the amount of permitted increases the Controller may determine such amount.

(3) If an application for fixing the standard rent or for determining the permitted increases is made by a tenant who has received a notice from his landlord under sub-section (2) of section 14, the Controller shall forthwith issue a direction to the tenant specifying the amount of rent or permitted increases to be paid by the tenant pending the final decision of the application.

No objection ordinarily to be made if tenant pays or is ready and willing to pay standard rent and permitted increases.

14. (1) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, the amount of the standard rent and permitted increases, if any, and observes and performs the other conditions of the tenancy, in so far as they are consistent with the provisions of this Act.

(2) No suit or proceeding for recovery of possession (other than an execution proceeding) shall be instituted by a landlord against a tenant on the ground of non-payment of the standard rent or permitted increases due, until the expiration of one month next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882.

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(3) No decree or order for eviction shall be made by any court in any such suit or proceeding if the tenant pays in court on the first day of hearing the standard rent or permitted increases then due together with the costs of the suit or proceeding.

*Explanation.*—In any case where there is a dispute as to the amount of standard rent or permitted increases recoverable under this Act the tenant shall be deemed to be ready and willing to pay such amount if, before the expiry of the period of one month after notice referred to in sub-section (2), he makes an application to the Controller under sub-section (3) of section 13 and thereafter pays or tenders the amount of rent or permitted increases specified by the Controller in the direction issued under that sub-section.

15. (1) Notwithstanding anything contained in this Landlord Act, a landlord shall be entitled to recover possession of any premises on obtaining a certificate from the Controller <sup>may recover possession.</sup> certifying—

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(a) that the tenant has committed any act contrary to the provisions of clause (c) of section 108 of the Transfer of Property Act, 1882; or

(b) that the tenant has, without the landlord's consent, constructed on the premises any permanent structure; or

(c) that the tenant, or any person residing with the tenant has been guilty of conduct which is a nuisance or annoyance to the adjoining or neighbouring occupiers, or has been convicted of using the premises or allowing the premises to be used for immoral or illegal purposes; or

(d) that the condition of the premises has, in the opinion of the Controller, deteriorated owing to acts of waste by, or neglect or default of, the tenant or any person residing with the tenant; or

(e) that the tenant has given notice to quit and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps, as a result of which he would, in the opinion of the Controller, be seriously prejudiced if he could not obtain possession of the premises; or

(f) that the tenant has, since the coming into operation of this Act, sub-let or transferred in any manner the whole or part of the premises without the permission of the landlord; or

(g) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has

ceased, whether before or after the coming into operation of this Act, to be in such service or employment; or

(h) that the premises are reasonably and *bona fide* required by the landlord for occupation by himself or by his son or daughter over 21 years of age or by his father or mother or by any other person for whom under his personal law he is under a legal obligation to provide a residence, or for the occupation of any person for whose benefit the premises are held; or

(i) that the premises are reasonably and *bona fide* required by the landlord for the erection of a new building or for the repair or reconstruction of or an addition to an existing building which cannot be done without the premises being vacated; or

(j) that the rent charged by the tenant for the premises or any part thereof which are sub-let is in excess of the standard rent and permitted increases in respect of such premises or part or that the tenant has received any fine, premium, other like sum or consideration in respect of such premises or part; or

(k) that the premises have not been used without reasonable cause for the purpose for which they were let for a continuous period of six months immediately preceding the date on which an application for a certificate is made to the Controller; or

(l) that the tenant after the coming into operation of this Act has built, acquired vacant possession of or been allotted a suitable residence.

(2) No certificate under clause (h) of sub-section (1) shall be granted if the Controller is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by granting the certificate than by refusing to grant it.

Where the Controller is satisfied that no hardship would be caused either to the tenant or to the landlord by the grant of a certificate in respect of a part of the premises, he may grant a certificate in respect of such part only.

*Explanation.*—For the purposes of clause (h) of sub-section (1) a person shall not be deemed to be a landlord unless he has acquired his interest in the premises at a date prior to the beginning of the tenancy, or the first day of January 1947, whichever is later or, if the interest has devolved on him by inheritance or succession, his predecessor-in-title had acquired the interest at a date prior to the beginning of the tenancy or the first day of January 1947, whichever is later.

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(3) The Controller may grant a certificate under clause (i) of sub-section (1) only in respect of a part of the premises which in his opinion it is necessary to vacate for carrying out the work of repairs, reconstruction or addition.

(4) For the purposes of clause (j) of sub-section (1) the standard rent or permitted increases in respect of the part sub-let shall be the amounts bearing such proportion to the standard rent or permitted increases in respect of the premises as may be reasonable having regard to the extent of the part sub-let and other relevant considerations.

16. Where the interest of a tenant of any premises is determined, either as the result of the landlord recovering possession through court or otherwise or for any other reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions as he would have held from the tenant if the tenancy had continued.

17. (1) The Controller shall, when granting a certificate under clause (i) of sub-section (1) of section 15, certifying that any premises or part thereof are reasonably and *bona fide* required by the landlord for the repairs of an existing building, specify in the certificate the date on or before which the tenant shall deliver possession so as to enable the landlord to commence the work of repairs.

(2) If the tenant delivers possession on or before the date specified in the certificate, the landlord shall, on the completion of the work of repairs, place the tenant, if he so elects within two months from the date on which possession was delivered, in occupation of the premises or part thereof on the original terms and conditions.

(3) If, after the tenant has delivered possession on or before the date specified in the certificate, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (2), the Controller may, on the application of the tenant made within one year of the specified date, order the landlord to place him in occupation of the premises or part thereof on the original terms and conditions; and on such order being made the landlord and any person who may be in occupation shall give vacant possession to the tenant of the premises or part thereof.

(4) Any landlord who, when the tenant has vacated by the date specified in the certificate, without reasonable excuse fails to commence the work of repairs and any landlord or other person in occupation of the premises who fails to comply with the order made by the Controller under

sub-section (3), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Recovery of possession for occupation and reconstruction, etc., and re-entry.

18. (1) Where any certificate has been granted by the Controller under clause (h) of sub-section (1) of section 15, or under clause (i) of sub-section (1) of section 15 on the ground that the premises are reasonably and *bona fide* required by the landlord for the erection of a new building or for the reconstruction of or addition to an existing building, and the premises are not occupied or the work of erection, reconstruction or addition is not commenced within a period of one month from the date the landlord recovers possession, or the premises are re-let within one year of the said date to any person other than the original tenant, the Controller may, on the application of the original tenant made within thirteen months of such date, order the landlord to place him in occupation of the premises on the original terms and conditions, and on such order being made, the landlord and any person who may be in occupation of the premises shall give vacant possession to the original tenant.

(2) Any landlord who recovers possession under clause (h) or (i) of sub-section (1) of section 15 and keeps the premises unoccupied or does not commence the work of erection, reconstruction or addition without reasonable excuse within the period of one month from the date he recovered possession and any landlord or other person in occupation of the premises who fails to comply with the order of the Controller under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both. ~~22~~

Unlawful charges by landlord.

19. (1) If any landlord either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of the landlord receives any fine, premium or other like sum or any consideration, other than the standard rent or the permitted increases, in respect of the grant, renewal or continuance of a lease of any premises, or for giving his consent to the transfer of a lease by sub-lease or otherwise, such landlord or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or the value of the consideration received by him, and further where the offence is committed by a landlord in respect of premises which were of his ownership on the date of the offence such premises shall be liable to confiscation.

(2) Where any fine, premium or other like sum or any consideration referred to in sub-section (1) is paid by any

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person, the amount or value thereof shall be recoverable by him from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, if such person is a tenant, without prejudice to any other remedy for recovery, be deducted by him from any rent payable by him to such landlord.

(3) Nothing in this section shall apply to any payment made under any agreement entered into before the first day of September 1940.

*Explanation.*—For the purposes of sub-section (1)—

(a) receipt of rent in advance for more than three months in respect of premises let for the purpose of residence, or

(b) where any furniture or other article is sold by the landlord to the tenant either before or after the creation of tenancy of any premises, the excess of the price received over the reasonable price of the furniture or article ;

shall be deemed to be a fine or premium or consideration.

20. (1) It shall not be lawful for the tenant or any person acting or purporting to act on behalf of the tenant to claim or receive any sum or any consideration as a condition of the relinquishment of his tenancy of any premises: Unlawful charges by tenant.

(2) Any tenant who in contravention of the provisions of sub-section (1) receives any sum or consideration shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the sum or the value of the consideration received by him.

21. Any amount paid on account of rent after the date of the coming into operation of this Act shall, except in so far as payment thereof is in accordance with the provisions of this Act, be recoverable by the tenant from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, without prejudice to any other remedy for recovery, be deducted by such tenant from any rent payable by him to such landlord. Recovery of amounts paid not in accordance with Act.

22. (1) Every landlord shall, on being so requested in writing by a tenant, furnish to such tenant within one month of the request a statement giving full particulars of the amount of standard rent of the premises or part thereof let to such tenant and of the permitted increases. Landlord to furnish particulars of rent, etc., to tenant.

(2) Any landlord who fails to furnish such statement or any landlord or his agent who intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

Tenant who has transferred or sub-let tenancy before this Act to furnish particulars.

23. (1) Every tenant who, before the date of the coming into operation of this Act, has sub-let or transferred, without the consent of the landlord, the whole or any part of the premises let to him shall furnish to the landlord, within one month of a request in writing made therefor by the landlord, a statement in writing signed by him giving full particulars of such sub-letting or transfer including the rent charged by him.

(2) Any tenant who fails to furnish such statement or intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

Landlord's duty to keep premises in good repair.

24. (1) Notwithstanding anything contained in any law for the time being in force and in the absence of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair.

(2) If the landlord neglects to make within a reasonable time after notice any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord :

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

Conversion of residential into non-residential premises prohibited.

25. (1) A landlord shall not without permission in writing given by the Controller use or permit to be used for a non-residential purpose any premises which on the date of the coming into operation of this Act were used for a residential purpose.

(2) A landlord who has obtained under clause (i) of sub-section (1) of section 15 a certificate that the premises are reasonably and *bona fide* required for the reconstruction of or for addition to an existing building shall not without permission in writing given by the Controller reconstruct or add to the building in such manner as to convert residential premises into non-residential premises.

(3) Any landlord who contravenes the provisions of sub-section (1) or sub-section (2) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

## PART III.

*Hotels and Lodging Houses.*

26. (1) The Controller may fix a fair rate to be charged for board, lodging or other service provided in a hotel or lodging house at such amount as, having regard to the circumstances of the case, he deems just. Fixation of fair rate and number of lodgers.

(2) The Controller may fix a fair rate separately for—

(i) lodging with reference to the nature of the accommodation and the number of lodgers to be accommodated;

(ii) board, partial or full;

(iii) other service.

(3) The Controller may fix fair rates separately for daily and monthly lodgers.

(4) The Controller shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel or lodging house.

27. The Controller may, from time to time, revise the fair rates or the number of lodgers fixed under section 26. Revision of fair rates and number of lodgers.

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of  
1944.

28. Fair rates fixed under the Bombay Hotels and Lodging Houses Control Order, 1942, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and which were in force immediately before the coming into operation of this Part shall be deemed to have been fixed under this Part, and the provisions of this Part shall apply in respect of such rates. Continuance of fair rates before coming into operation of this Part.

29. Where under section 26 or section 27 the Controller has fixed or revised the fair rate or the number of lodgers he shall direct the manager of the hotel or the owner of the lodging house, as the case may be, to display a notice of the fair rate, the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel or lodging house and also in the room or accommodation in respect of which the fair rate and the number of lodgers are fixed or revised. Notice of fair rate and number of lodgers to be displayed.

30. (1) Notwithstanding any agreement to the contrary, no manager of a hotel or owner of a lodging house shall charge any amount in excess of the fair rate. Charges not recoverable in excess of fair rate.

(2) When the Controller has fixed the fair rate any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate.

(3) Any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of payment from the manager of the hotel or the owner of the lodging house or his legal representative, and may, without prejudice to any other remedy for recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

No ejectment ordinarily to be made if fair rate paid.

31. No manager of a hotel or owner of a lodging house shall evict or refuse board or other service to a lodger so long as he pays, or is ready and willing to pay, the fair rate and observes and performs the other conditions of his agreement in so far as they are consistent with the provisions of this Act.

When manager of a hotel or owner of lodging house may recover possession.

32. Notwithstanding anything [contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying that—

(a) the lodger has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring lodger; or

(b) the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or for any other cause which may be deemed satisfactory by the Controller.

Penalties.

33. (1) If any manager of a hotel or owner of a lodging house either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of a manager of a hotel or owner of a lodging house receives any fine, premium or other like sum

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or ~~any~~ consideration other than the fair rate, in respect of the grant or continuance of accommodation in the hotel or lodging house, such manager, owner or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or the value of the consideration received by him.

(2) Any manager of a hotel or owner of a lodging house who charges any amount in excess of the fair rate in contravention of section 30 shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine, or with both.

(3) Any manager of a hotel or owner of a lodging house ~~who~~ accommodates lodgers or permits lodgers to be accommodated in a room or specified accommodation in excess of the number fixed by the Controller shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(4) Any manager of a hotel or owner of a lodging house who fails to display a notice in contravention of the Controller's direction under section 29 shall, on conviction, be punishable with fine which may extend to five hundred rupees.

#### PART IV.

##### *Miscellaneous.*

34. (1) No order under this Act shall be made by the Controller except after holding an inquiry. Provisions relating to inquiries.

(2) Every such inquiry shall be made summarily in the prescribed manner.

(3) For the purposes of holding an inquiry under subsection (1) the Controller shall have the same powers as are vested in Civil Courts in respect of—

(a) proof of facts by affidavits,

(b) summoning and enforcing the attendance of any person and examining him on oath,

(c) compelling the production of documents, and

(d) issuing commissions for the examination of witnesses

(4) The Controller may himself enter or authorize an person subordinate to him to enter upon any premises, hotel or lodging house or any part thereof to which the inquiry relates.

Compensation in respect of applications which are not *bona fide*, or are false, frivolous or vexatious.

35. If the Controller finds that any application made to him is not made *bona fide* or is false, frivolous or vexatious, he may, after hearing the applicant and for reasons to be recorded, order that compensation not exceeding one thousand rupees be paid by such applicant to his opponent.

Execution of Controller's orders.

36. An order made by the Controller under sub-section (3) of section 17 or under sub-section (1) of section 18 or under section 35 shall be executed in—

(a) Greater Bombay by the Chief Judge of the Court of Small Causes, Bombay, and

(b) elsewhere by the Civil Judge (Senior Division) or Civil Judge (Junior Division), as the case may be, having ordinary jurisdiction over the area in which the premises are situated,

as if it were a decree passed by him.

Appeal.

37. (1) An appeal shall lie from an order passed by the Controller under the provisions of this Act (including an order granting or refusing a certificate under section 15 or section 32) within fifteen days from the date of communication of the order, to the Court of Small Causes, Bombay, in the case of premises, hotels, or lodging houses situate in Greater Bombay, and to the District Court in the case of premises, hotels or lodging houses situate elsewhere.

(2) The Court hearing the appeal shall then call for the record of the Controller and, after hearing the parties, examining the record and making such inquiry as it thinks fit itself or through the Controller, shall decide the appeal.

(3) The decision of the Court and subject only to any such decision, the order of the Controller shall for the purposes of this Act be final, and shall not be liable to be called in question in any Court of law whether in a suit or other proceeding or by way of appeal or revision.

Controller to be deemed public servant.

38. A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

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of  
1860.

All proceedings under this Act to be judicial proceedings.

39. All proceedings under this Act before a Controller shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code.

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of  
1860.

Protection of action taken under this Act.

40. No suit, prosecution or other legal proceeding shall lie against a Controller in respect of anything in good faith done or intended to be done under this Act.

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41. (1) Offences under sections 17, 18, 19, 20 and 25, and sub-sections (1) and (2) of section 33 shall be cognizable to be and shall be triable in Greater Bombay by a Presidency Magistrate and by a Magistrate of the First Class elsewhere.

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1898.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a magistrate trying offences under this Act to pass sentences of fine or to award any punishment under this Act in excess of his powers.

42. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

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1882

43. No distress warrant shall be issued under Chapter VIII of the Presidency Small Cause Courts Act, 1882—

In City of  
Bombay  
distress  
warrants  
barred.

(a) for any rent which under the provisions of this Act it is not lawful to recover, or

(b) unless the person applying for a warrant under the said Chapter of the said Act shall when making his application for the same swear or affirm that the recovery of any part of the rent in respect of which the warrant is applied for is in accordance with the provisions of this Act.

44. - (1) The Provincial Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

(i) the manner in which rent recoverable according to any calendar other than the British calendar before the coming into operation of this Act shall be calculated and charged in terms of the British calendar under sub-section (2) of section 12;

(ii) the manner in which inquiries shall be made summarily under sub-section (2) of section 34.

Bom.  
XVI  
of  
1939.  
Bom.  
VII  
of  
1944.

45. (1) The Bombay Rent Restriction Act, 1939, is hereby repealed.

(2) The Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, is hereby repealed:

Provided that—

(a) all certificates granted and orders made or directions given by the Controllers appointed under the

repealed Act shall be deemed to be granted, made or given under this Act;

(b) all proceedings pending before the Controllers under the repealed Act shall be transferred to and continued before the Controllers appointed under this Act as if they were proceedings instituted before Controllers under this Act;

(c) all appeals pending before any authority under the repealed Act shall be transferred to, continued before and disposed of by the courts hearing appeals under this Act as if they were appeals under this Act; and

(d) all appeals against orders of the Controllers appointed under the repealed Act, which would have lain under that Act, shall be deemed to be appeals from orders made by the Controllers under this Act and shall be presented to the courts hearing appeals under this Act and shall be disposed of accordingly.

### SCHEDULE I.

[See section 2 (2)]

- |                                                        |                                                          |
|--------------------------------------------------------|----------------------------------------------------------|
| (i) The City of Bombay.                                | (21) Asarva Village.                                     |
| (ii) The Bombay Suburban District.                     | (22) Revenue Survey Nos. 1077 to 1140 of Naroda Village. |
| (iii) The Thana District.                              | (23) Sahijpur Bogha Village.                             |
| (iv) The Nasik District.                               | (24) Dariapur-Kajipur Village.                           |
|                                                        | (25) Hansol Village.                                     |
|                                                        | (26) Acher Village..                                     |
| (v) (a) <i>Ahmedabad District—</i>                     | (b) <i>Kaira District—</i>                               |
| (1) Ahmedabad Municipal Borough.                       | (1) Anand Municipal District.                            |
| (2) Ahmedabad Cantonment.                              | (2) Borsad Municipal District.                           |
| (3) Kochrab Village.                                   | (3) Mehmedabad Municipal District.                       |
| (4) Paldi Village.                                     | (4) Kapadwanj Municipal District.                        |
| (5) Madalpur Village.                                  | (5) Umreth Municipal District.                           |
| (6) Changispur Village.                                | (6) Dakore Municipal District.                           |
| (7) Shekhpur-Khanpur Village.                          | (7) Kaira Municipal District.                            |
| (8) Vasma-Maktampur Village.                           | (8) Nadiad Municipal District.                           |
| (9) Vadaj Village.                                     | (9) Matar Village.                                       |
| (10) Usmanpur Village.                                 | (10) Thasra Village..                                    |
| (11) Ranip Village.                                    |                                                          |
| (12) Survey Nos. 149, 150 and 151 of Memnagar Village. | (c) <i>Broach District—</i>                              |
| (13) Baherampur Village.                               | (1) Broach Municipal Borough.                            |
| (14) Ranip-Hirpur Village.                             | (2) Ankleshwar Municipal District.                       |
| (15) Dani Limda Village.                               | (3) Jambusar Municipal District.                         |
| (16) Gomtipur Village.                                 |                                                          |
| (17) Khokra-Mahmedabad Village.                        | (d) <i>Panch Mahals District—</i>                        |
| (18) Amraivali Village.                                | (1) Dohad Municipal District.                            |
| (19) Rakhial Village.                                  | (2) Godhra Municipal Borough.                            |
| (20) Saraspur Village.                                 | (3) Jhalod Village.                                      |

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41. (1) Offences under sections 17, 18, 19, 20 and 25, and sub-sections (1) and (2) of section 33 shall be cognizable and shall be triable in Greater Bombay by a Magistrate and by a Magistrate of the First Class elsewhere. Certain offences to be cognizable.

V of  
1898.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a magistrate trying offences under this Act to pass sentences of fine or to award any punishment under this Act in excess of his powers.

42. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons; (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence. Offence by companies, etc.

XV of  
1882

43. No distress warrant shall be issued under Chapter VIII of the Presidency Small Cause Courts Act, 1882— In City Bombay distress warrants barred.

(a) for any rent which under the provisions of this Act it is not lawful to recover, or—

(b) unless the person applying for a warrant under the said Chapter of the said Act shall when making his application for the same swear or affirm that the recovery of any part of the rent in respect of which the warrant is applied for is in accordance with the provisions of this Act.

44. (1) The Provincial Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act. Rules.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

(i) the manner in which rent recoverable according to any calendar other than the British calendar before the coming into operation of this Act shall be calculated and charged in terms of the British calendar under sub-section (2) of section 12;

(ii) the manner in which inquiries shall be made summarily under sub-section (2) of section 34.

Bom.  
XVI  
of  
1939.  
Bom.  
VII  
of  
1944.

45. (1) The Bombay Rent Restriction Act, 1939, is hereby repealed.

(2) The Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, is hereby repealed:

Provided that—

(a) all certificates granted and orders made or directions given by the Controllers appointed under the

repealed Act shall be deemed to be granted, made or given under this Act ;

(b) all proceedings pending before the Controllors under the repealed Act shall be transferred to and continued before the Controllors appointed under this Act as if they were proceedings instituted before Controllors under this Act ;

(c) all appeals pending before any authority under the repealed Act shall be transferred to, continued before and disposed of by the courts hearing appeals under this Act as if they were appeals under this Act ; and

(d) all appeals against orders of the Controllors appointed under the repealed Act, which would have lain under that Act, shall be deemed to be appeals from orders made by the Controllors under this Act and shall be presented to the courts hearing appeals under this Act and shall be disposed of accordingly.

### SCHEDULE I.

[See section 2 (2)]

- |                                                         |                                                          |
|---------------------------------------------------------|----------------------------------------------------------|
| (i) The City of Bombay.                                 | (21) Asarva Village.                                     |
| (ii) The Bombay Suburban District.                      | (22) Revenue Survey Nos. 1077 to 1140 of Naroda Village. |
| (iii) The Thana District.                               | (23) Sahipur Bogha Village.                              |
| (iv) The Nasik District.                                | (24) Dariapur-Kajipur Village.                           |
|                                                         | (25) Hansol Village.                                     |
|                                                         | (26) Acher Village..                                     |
| (v) (a) <i>Ahmedabad District</i> —                     | (b) <i>Kaira District</i> —                              |
| (1) Ahmedabad Municipal Borough.                        | (1) Anand Municipal District.                            |
| (2) Ahmedabad Cantonment.                               | (2) Borsad Municipal District.                           |
| (3) Kocharab Village.                                   | (3) Mehmedabad Municipal District.                       |
| (4) Paldi Village.                                      | (4) Kapadwanj Municipal District.                        |
| (5) Madalpur Village.                                   | (5) Umreth Municipal District.                           |
| (6) Changispur Village.                                 | (6) Dakore Municipal District.                           |
| (7) Shekhpur-Khanpur Village.                           | (7) Kaira Municipal District.                            |
| (8) Vasma-Maktampur Village.                            | (8) Nadiad Municipal District.                           |
| (9) Vadaj Village.                                      | (9) Matar Village.                                       |
| (10) Usmanpur Village.                                  | (10) Thasra Village..                                    |
| (11) Ranip Village.                                     |                                                          |
| (12) Survey Nos. 149, 150 and 151. of Memnagar Village. | (c) <i>Broach District</i> —                             |
| (13) Baherampur Village.                                | (1) Broach Municipal Borough.                            |
| (14) Ranip-Hirpur Village.                              | (2) Ankleshwar Municipal District.                       |
| (15) Dani Limda Village.                                | (3) Jambusar Municipal District.                         |
| (16) Gomtipur Village.                                  |                                                          |
| (17) Khokra-Mahmedabad Village.                         | (d) <i>Panch Mahals District</i> —                       |
| (18) Amraivali Village.                                 | (1) Dohad Municipal District.                            |
| (19) Rakhial Village.                                   | (2) Godhra Municipal Borough.                            |
| (20) Saraspur Village.                                  | (3) Jhalod Village.                                      |

9)

L. A. BILL No. LIII OF 1947.

*A Bill to amend and consolidate the law relating to the control  
of rents and repairs of certain premises, of rates of  
hotels and lodging houses and of evictions. .*

(As read for the third time and passed by the Legislative  
Assembly on the 3rd November 1947.)

WHEREAS it is expedient to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions; It is hereby enacted as follows:—

PART I.

*Preliminary.*

1. This Act may be called the Bombay Rents, Hotel and Short title.  
Lodging House Rates Control Act, 1947.

2. (1) Parts I and IV of this Act shall extend to the whole Extent.  
of the Province of Bombay.

(2) Parts II and III shall extend respectively to the areas specified in Schedules I and II to this Act and shall continue  
5 to extend to any such area notwithstanding that the area ceases to be of the description therein specified.

(3) The Provincial Government may, by notification in the *Official Gazette*, extend to any other 'area any or all of the provisions of Part II or Part III or of both.

10 (4) The Provincial Government may, at any time by like notification direct that any or all of the provisions of Part II or Part III or of both, as the case may be, shall cease to extend to such area and on such date as may be specified in the 'notification; and on that date the said provisions  
15 shall cease to be in force in such area.

Commence-  
ment and  
duration.

3. (1) This Act shall come into operation on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

(2) It shall remain in force upto and inclusive of the 31st day of March 1950 :

5

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period not exceeding two years.

(3) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act or upon this Act or any provision thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act.

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I of  
1904

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Exemptions.

4. (1) This Act shall not apply to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government or a local authority.

5

(2) The Provincial Government may direct that all or any of the provisions of this Act shall not apply to premises used for a public purpose of a charitable nature.

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Definitions.

5. In this Act unless there is anything repugnant to the subject or context—

(1) "fair rate" means the rate fixed under section 33 and includes the rate as revised under section 34 ;

5

(2) "hotel or lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration ;

(3) "landlord" means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person not being a tenant who from time to time derives title under a landlord; and further includes in respect of his sub-tenant a tenant who has sub-let any premises;

10

15

(4) "legal representative" means a legal representative as defined in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which the deceased person was a member;

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V of  
1908.

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25 (5) "manager of a hotel" includes any person in charge of the management of a hotel;

(6) "owner of a lodging house" includes any person who receives or is entitled to receive, whether on his own account or on behalf of himself and others or as  
30 an agent or trustee, any monetary consideration from any person on account of board, lodging or other service;

(7) "permitted increase" means an increase in rent permitted under the provisions of this Act;

35 (8) "premises" means—

(a) any land not being used for agricultural purposes,

(b) any building or part of a building let separately (other than a farm building) including—

40 (i) the garden, grounds, garages and outhouses, if any, appurtenant to such building or part of a building,

(ii) any furniture supplied by the landlord for use in such building or part of a building,

45 (iii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house;

50 (9) "prescribe" means prescribe by rules and prescribed shall be construed accordingly;

(10) "standard rent" in relation to any premises means—

(a) where the standard rent is fixed by the Court and the Controller respectively under the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, such standard rent; or

(b) where the standard rent is not so fixed,—

subject to the provisions of section 11,

60 (i) the rent at which the premises were let on the first day of September 1940, or

(ii) where they were not let on the first day of September 1940, the rent at which they were last let before that day, or

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1939  
Bom.  
VII of  
1944.

(iii) where they were first let after the first day of 65  
September 1940, the rent at which they were first  
let, or

(iv) in any of the cases specified in section 11,  
the rent fixed by the Controller;

(11) "tenant" means any person by whom or on 70  
whose account rent is payable for any premises and  
includes—

(a) such sub-tenants and other persons as have derived  
title under a tenant before the coming into operation  
of this Act, 75

(b) any person remaining, after the determination  
of the lease, in possession, with or without the assent  
of the landlord, of the premises leased to such person or  
his predecessor who has derived title before the  
coming into operation of this Act, 80

(c) any member of the tenant's family residing with  
him at the time of his death as may be decided in  
default of agreement by the Controller.

## PART II.

### *Residential and other premises.*

**Application.** 6. (1) In areas specified in Schedule I, this Part shall  
apply to premises let for residence, education, business, trade,  
storage or any other purpose notified in the *Official Gazette*  
by the Provincial Government.

(2) In areas to which this Part is extended under sub- 5  
section (3) of section 2, it shall apply to premises let for such  
of the purposes referred to in, or notified under, sub-section  
(1) or let for such standard rent as the Provincial Government  
may, by notification in the *Official Gazette*, specify.

**Rent in  
excess of  
standard  
rent illegal.**

7. Except where the rent is liable to periodical incre-  
ment by virtue of an agreement entered into before the first  
day of September 1940, it shall not be lawful to claim or receive  
on account of rent for any premises any increase above the  
standard rent, unless the landlord was, before the coming  
into operation of this Act, entitled to recover such increase  
under the provisions of the Bombay Rent Restriction Act,  
1939, or the Bombay Rents, Hotel Rates and Lodging House  
Rates (Control) Act, 1944, or is entitled to recover such  
increase under the provisions of this Act.

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Bom.  
XVI  
of  
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VII of  
1944.

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8. (1) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.

Cases where rent to be deemed and not to be deemed to be increased.

(2) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.

9. A landlord shall be entitled to make such increase in the rent of the premises, as may be reasonable, for any improvement or structural alteration of the premises which has been made with the consent of the tenant given in writing; and such increase shall not be deemed to be an increase for the purposes of section 7.

Increase in rent on account of improvement, etc., excepted.

*Explanation.*—In this section improvements and alterations do not include the repairs which the landlord is bound to make under sub-section (1) of section 23.

10. Where a landlord is required to pay to a local authority in respect of any premises any rate, cess or tax imposed or levied for the purposes of such authority, he shall be entitled to make an increase in the rent of the premises by an amount not exceeding the increase paid by him in such rate, cess or tax in the period of assessment which included the date of the coming into operation of this Act, and such increase in rent shall not be deemed to be an increase for the purposes of section 7.

Increase in rent on account of payment of rates, etc., excepted.

11. (1) In any of the following cases the Court may upon an application made to it for that purpose, or in any suit or proceeding fix the standard rent at such amount as, having regard to the provisions of this Act and the circumstances of the case, the Court deems just—

Court may fix standard rent and permitted increases in certain cases.

(a) where any premises are first let after the first day of September 1940, and the rent at which they are so let is in the opinion of the Court excessive; or

(b) where the Court is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned in sub-clauses (i) to (iii) of clause (b) of sub-section (10) of section 5; or

(c) where by reason of the premises having been let at one time as a whole or in parts and at another time in parts

or as a whole, or for any other reason, any difficulty arises in giving effect to this Part; or 15

(d) where any premises have been or are let rent-free or at a nominal rent or for some consideration in addition to rent; or 1

(e) where there is any dispute between the landlord and the tenant regarding the amount of standard rent. 20

(2) If there is any dispute between the landlord and the tenant regarding the amount of permitted increases the Court may determine such amount.

(3) If an application for fixing the standard rent or for determining the permitted increases is made by a tenant who has received a notice from his landlord under sub-section (2) of section 12, the Court shall forthwith make an order specifying the amount of rent or permitted increases to be paid by the tenant pending the final decision of the application, and a copy of such order shall be served upon the landlord. 25 30

No ejectment ordinarily to be made if tenant pays or is ready and willing to pay standard rent and permitted increases.

12. (1) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, the amount of the standard rent and permitted increases, if any, and observes and performs the other conditions of the tenancy, in so far as they are consistent with the provisions of this Act. 5

(2) No suit for recovery of possession shall be instituted by a landlord against a tenant on the ground of non-payment of the standard rent or permitted increases due, until the expiration of one month next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882. 10 IV of 1882.

(3) No decree for eviction shall be passed in any such suit if, at the hearing of the suit, the tenant pays or tenders in Court the standard rent or permitted increases then due together with the costs of the suit. 15

*Explanation.*—In any case where there is a dispute as to the amount of standard rent or permitted increases recoverable under this Act the tenant shall be deemed to be ready and willing to pay such amount if, before the expiry of the period of one month after notice referred to in sub-section (2), he makes an application to the Court under sub-section (3) of section 11 and thereafter pays or tenders the amount of rent or permitted increases specified in the order made by the Court. 20 25

13. (1) Notwithstanding anything contained in this Act, When  
a landlord shall be entitled to recover possession of any landlord  
premises if the Court is satisfied— may recover  
possession.

- 5 (a) that the tenant has committed any act contrary  
to the provisions of clause (c) of section 108 of the Transfer  
of Property Act, 1882; or  
IV of  
1882.
- (b) that the tenant has, without the landlord's consent  
given in writing, erected on the premises any permanent  
structure; or
- 10 (c) that the tenant or any person residing with the  
tenant has been guilty of conduct which is a nuisance  
or annoyance to the adjoining or neighbouring occupiers,  
or has been convicted of using the premises or occupying  
the premises to be used for immoral or illegal purposes;  
15 or
- (d) that the tenant has given notice to quit and in  
consequence of that notice the landlord has contracted  
to sell or let the premises or has taken any other steps,  
as a result of which he would, in the opinion of the  
20 Court, be seriously prejudiced if he could not obtain  
possession of the premises; or
- (e) that the tenant has, since the coming into operation  
of this Act, sub-let the whole or part of the premises  
or assigned or transferred in any other manner his  
25 interest therein; or
- (f) that the premises were let to the tenant for use  
as a residence by reason of his being in the service or  
employment of the landlord, and that the tenant has  
ceased, whether before or after the coming into operation  
30 of this Act, to be in such service or employment; or
- (g) that the premises are reasonably and *bona fide*  
required by the landlord for occupation by himself  
or by any person for whose benefit the premises are  
held; or
- 35 (h) that the premises are reasonably and *bona fide*  
required by the landlord for carrying out repairs which  
cannot be carried out without the premises being vacated;  
or
- 40 (i) that where the premises are land, such land is  
reasonably and *bona fide* required by the landlord for the  
erection of a new residential building; or
- (j) that the rent charged by the tenant for the premises  
or any part thereof which are sub-let before the coming  
into operation of this Act is in excess of the standard  
45 rent and permitted increases in respect of such premises  
or part or that the tenant has received any fine, premium,  
other like sum or consideration in respect of such premises  
or part; or
- (k) that the premises have not been used without  
50 reasonable cause for the purpose for which they were let  
for a continuous period of six months immediately  
preceding the date of the suit; or

(1) that the tenant after the coming into operation of this Act has built, acquired vacant possession of or been allotted a suitable residence. 55

(2) No decree for eviction shall be passed on the ground specified in clause (g) of sub-section (1) if the Court is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by passing the decree than by refusing to pass it. 60

Where the Court is satisfied that no hardship would be caused either to the tenant or to the landlord by passing the decree in respect of a part of the premises, the Court shall pass the decree in respect of such part only. 65

*Explanation.*—For the purposes of clause (g) of sub-section (1)—

(a) a person shall not be deemed to be a landlord unless he has acquired his interest in the premises at a date prior to the beginning of the tenancy, or the first day of January 1947, whichever is later or, if the interest has devolved on him by inheritance or succession, his predecessor-in-title had acquired the interest at a date prior to the beginning of the tenancy or the first day of January 1947, whichever is later; 70 75

(b) the expression “landlord” shall not include a rent-farmer or rent-collector or manager.

(3) The Court may pass the decree on the ground specified in clause (h) or (i) of sub-section (1) only in respect of a part of the premises which in its opinion it is necessary to vacate for carrying out the work of repairs or erection. 80

(4) For the purposes of clause (j) of sub-section (1) the standard rent or permitted increases in respect of the part sub-let shall be the amounts bearing such proportion to the standard rent or permitted increases in respect of the premises as may be reasonable having regard to the extent of the part sub-let and other relevant considerations. 85

Sub-tenant to become tenant on determination of tenancy. 14. Where the interest of a tenant of any premises is determined for any reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let before the coming into operation of this Act shall, subject to the provisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions as he would have held from the tenant if the tenancy had continued. 5

Tenant not to sub-let or transfer after this Act. 15. Notwithstanding anything contained in any law, it shall not be lawful after the coming into operation of this Act for any tenant to sub-let the whole or any part of the premises let to him or to assign or transfer in any other manner his interest therein. 5

16. (1) The Court shall when passing a decree on the ground specified in clause (h) of sub-section (1) of section 13 ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and if the tenant so elects, shall record the fact of the election in the decree and specify in the decree the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs.

Recovery of possession for repairs; and re-entry.

(2) If the tenant delivers possession on or before the date specified in the decree, the landlord shall, on the completion of the work of repairs, place the tenant in occupation of the premises or part thereof on the original terms and conditions.

(3) If, after the tenant has delivered possession on or before the date specified in the decree, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (2), the Court may, on the application of the tenant made within one year of the specified date, order the landlord to place him in occupation of the premises or part thereof on the original terms and conditions; and on such order being made the landlord and any person who may be in occupation shall give vacant possession to the tenant of the premises or part thereof.

(4) Any landlord who, when the tenant has vacated by the date specified in the decree, without reasonable excuse fails to commence the work of repairs and any landlord or other person in occupation of the premises who fails to comply with the order made by the Court under sub-section (3), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

17. (1) Where a decree for eviction has been passed by the Court on the ground specified in clause (g) or (i) of sub-section (1) of section 13 and the premises are not occupied or the work of erection is not commenced within a period of one month from the date the landlord recovers possession, or the premises are relet within one year of the said date to any person other than the original tenant, the Court may, on the application of the original tenant made within thirteen months of such date, order the landlord to place him in occupation of the premises on the original terms and conditions, and on such order being made, the landlord and any person who may be in occupation of the premises shall give vacant possession to the original tenant.

Recovery of possession for occupation etc., and re-entry.

(2) Any landlord who recovers possession on the ground specified in clause (g) or (i) of sub-section (1) of section 13 and keeps the premises unoccupied or does not commence the

work of erection without reasonable excuse within the period of one month from the date he recovered possession and any landlord or other person in occupation of the premises who fails to comply with the order of the Court under sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both. 20

Unlawful  
charges by  
landlord.

18. (1) If any landlord either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of the landlord receives any fine, premium or other like sum or deposit or any consideration, other than the standard rent or the permitted increases, in respect of the grant, renewal or continuance of a lease of any premises, or for giving his consent to the transfer of a lease by sub-lease or otherwise, such landlord or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him, and further where the offence is committed by a landlord in respect of premises which were of his ownership on the date of the offence such premises shall be liable to confiscation. 5 10 15

(2) Where any fine, premium or other like sum or deposit or any consideration referred to in sub-section (1) is paid by any person, the amount or value thereof shall be recoverable by him from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, if such person is a tenant, without prejudice to any other remedy for recovery, be deducted by him from any rent payable by him to such landlord. 20 25

(3) Nothing in this section shall apply to any payment made under any agreement entered into before the first day of September 1940.

*Explanation.*—For the purposes of sub-section (1)—

(a) receipt of rent in advance for more than three months in respect of premises let for the purpose of residence, or 30

(b) where any furniture or other article is sold by the landlord to the tenant either before or after the creation of tenancy of any premises, the excess of the price received over the reasonable price of the furniture or article ; 35

shall be deemed to be a fine or premium or consideration.

Unlawful  
charges by  
tenant.

19. (1) It shall not be lawful for the tenant or any person acting or purporting to act on behalf of the tenant to claim or receive any sum or any consideration as a condition of the relinquishment of his tenancy of any premises.

- 5 (2) Any tenant or person who in contravention of the provisions of sub-section (1) receives any sum or consideration shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the sum or the value of the consideration received by him.

20. Any amount paid on account of rent after the date of the coming into operation of this Act shall, except in so far as payment thereof is in accordance with the provisions of this Act, be recoverable by the tenant from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, without prejudice to any other remedy for recovery, be deducted by such tenant from any rent payable by him to such landlord.
- 5
- Recovery of amounts paid not in accordance with Act.

21. (1) Every landlord shall, upon a notice sent by the tenant by post, furnish to such tenant within one month of the receipt of such notice a statement giving full particulars of the amount of standard rent of the premises or part thereof let to such tenant and of the permitted increases.
- 5
- Landlord to furnish particulars of rent, etc. to tenant.

- (2) Any landlord who fails to furnish such statement or any landlord or his agent who intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.
- 10

22. (1) Every tenant who before the date of the coming into operation of this Act, has, without the consent of the landlord given in writing, sub-let the whole or any part of the premises let to him or assigned or transferred in any other manner his interest therein, and every sub-tenant to whom the premises are so sub-let or the assignment or transfer is so made shall furnish to the landlord upon a notice sent by the landlord by post, a statement in writing signed by him giving full particulars of such sub-letting, assignment or transfer including the rent charged or paid by him.
- 5
- Particulars to be furnished by tenant of tenancy sub-let or transferred before this Act.
- 10

- (2) Any tenant or sub-tenant who fails to furnish such statement or intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

23. (1) Notwithstanding anything contained in any law for the time being in force and in the absence of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair.
- 5
- Landlord's duty to keep premises in good repair.

- (2) If the landlord neglects to make within a reasonable time, after a notice is served by post, any repairs which he is bound to make under sub-section (1), the tenant may make the same himself and deduct the expenses of such

repairs from the rent or otherwise recover them from the landlord: 10

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

Landlord not to cut off or withhold essential supply or service.

24. (1) No landlord either himself or through any person acting or purporting to act on his behalf shall without just or sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him. 5

(2) A tenant in occupation of the premises may, if the landlord has contravened the provisions of sub-section (1), make an application to the Court complaining of such contravention.

(3) If the Court on inquiry finds that the tenant has been in enjoyment of the essential supply or service and that it was cut off or withheld by the landlord without just or sufficient cause, the Court shall make an order directing the landlord to restore such supply or service before a date to be specified in the order. Any landlord who fails to restore the supply or service before the date so specified shall for each day during which the default continues thereafter be liable to fine which may extend to one hundred rupees. 15

(4) Any landlord who contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both. 20

*Explanation.*—In this section essential supply or service includes supply of water, electricity, lights in passages and on stair-cases, lifts and conservancy or sanitary service. 25

Conversion of residential premises into non-residential premises prohibited.

25. (1) A landlord shall not use or permit to be used for a non-residential purpose any premises which on the date of the coming into operation of this Act were used for a residential purpose.

(2) Any landlord who contravenes the provisions of sub-section (1) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both. 5

Giving receipt for rent compulsory.

26. (1) Every landlord shall give a written receipt for any amount received by him in respect of any premises in such form and in such manner as may be prescribed.

(2) Any landlord or person who fails to give a written receipt for any amount received by him in respect of any premises shall, on conviction, be punishable with fine which may extend to one hundred rupees. 5

Recovery of rent according to British calendar.

27. (1) Notwithstanding anything contained in any law for the time being in force or any contract, custom or local usage to the contrary, rent payable by the month or year or portion of a year shall be recovered according to the British calendar. 5

(2) The Provincial Government may prescribe the manner in which rent recoverable according to any other calendar before the coming into operation of this Act shall be calculated and charged in terms of the British Calendar.

28. Notwithstanding anything contained in any law and <sup>Jurisdiction of courts.</sup> notwithstanding that, by reason of the amount of the claim or for any other reason, the suit or proceeding would not, but for this provision, be within its jurisdiction,

5 (a) in Greater Bombay, the Court of Small Causes, Bombay, and

(b) elsewhere, the court of the Civil Judge (Junior Division) having jurisdiction in the area in which the premises are situate or, if there is no such Civil Judge, 10 the court of the Civil Judge (Senior Division) having ordinary jurisdiction,

shall have jurisdiction to entertain and try any suit or proceeding between a landlord and a tenant relating to the recovery of rent or possession of any premises to which any of the provisions of this Part apply and to decide any application made under this Act and to deal with any claim or question arising out of this Act or any of its provisions; and no other court shall have jurisdiction to entertain any such suit, proceeding or application or to deal with such claim or 20 question.

*Explanation.*—In this section “proceeding” does not include an execution proceeding arising out of a decree passed before the coming into operation of this Act.

29. (1) Notwithstanding anything contained in any law, an appeal shall lie—

5 (a) in Greater Bombay, from a decree or order made by a Court of Small Causes, Bombay, exercising jurisdiction under section 28, to a bench of two judges of the said Court which shall not include the judge who made such decree or order;

(b) elsewhere, from a decree or order made by a Civil Judge exercising such jurisdiction, to the District Court. 10 (2) No further appeal shall lie against any decision in appeal under sub-section (1).

30. If the court finds that any suit, proceeding, or Compensation, application instituted or made before it is not instituted or made *bona fide* or is false, frivolous or vexatious, the court <sup>proceedings which are</sup> may, after hearing the plaintiff or applicant and for reasons <sup>not bona fide</sup> to be recorded, order that compensation, not exceeding one <sup>or are false, frivolous or vexatious.</sup> thousand rupees, be paid by such plaintiff or applicant to the defendant or opponent, as the case may be.

31. The courts specified in sections 28 and 29 shall follow <sup>Procedure of courts.</sup> the prescribed procedure in trying and hearing suits, proceedings, applications and appeals and in executing orders made by them.

## PART III.

*Hotels and Lodging Houses.*

**Appointment of Controller.** 32A The Provincial Government may by notification in the *Official Gazette* appoint any person to be a Controller for any area for the purposes of this Part.

**Fixation of fair rates and number of lodgers.** 33. (1) The Controller may fix a fair rate to be charged for board, lodging or other service provided in a hotel or lodging house at such amount as, having regard to the circumstances of the case, he deems just.

(2) The Controller may fix a fair rate separately for— 5

(i) lodging with reference to the nature of the accommodation and the number of lodgers to be accommodated;

(ii) board, partial or full; 10

(iii) other service.

(3) The Controller may fix fair rates separately for daily and monthly lodgers.

(4) The Controller shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel or lodging house. 15

**Revision of fair rates and number of lodgers.** 34. The Controller may, from time to time, revise the fair rates or the number of lodgers fixed under section 33.

**Continuance of fair rates before coming into operation of this Part.** 35. Fair rates fixed under the Bombay Hotels and Lodging Houses Control Order, 1942, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and which were in force immediately before the coming into operation of this Part shall be deemed to have been fixed under this Part, and the provisions of this Part shall apply in respect of such rates. 5 Bom. VII of 1944.

**Notice of fair rate and number of lodgers to be displayed.** 36. Where under section 33 or section 34 the Controller has fixed or revised the fair rate or the number of lodgers he shall direct the manager of the hotel or the owner of the lodging house, as the case may be, to display a notice of the fair rate, the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel or lodging house and also in the room or accommodation in respect of which the fair rate and the number of lodgers are fixed or revised. 5

**Charges not recoverable in excess of fair rate.** 37. (1) Notwithstanding any agreement to the contrary, no manager of a hotel or owner of a lodging house shall charge any amount in excess of the fair rate.

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(2) When the Controller has fixed the fair rate any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate.

(3) Any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of payment from the manager of the hotel or the owner of the lodging house or his legal representative, and may, without prejudice to any other remedy for recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

38. No manager of a hotel or owner of a lodging house shall evict or refuse board or other service to a lodger so long as he pays, or is ready and willing to pay, the fair rate and observes and performs the other conditions of his agreement in so far as they are consistent with the provisions of this Act. No ejectment ordinarily to be made if fair rate paid.

39. Notwithstanding anything contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying that— When manager of a hotel or owner of lodging house may recover possession.

(a) the lodger has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring lodger; or

(b) the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or for any other cause which may be deemed satisfactory by the Controller.

40. (1) If any manager of a hotel or owner of a lodging house either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of a manager of a hotel or owner of a lodging house receives any fine, premium or other like sum or deposit or any consideration other than the fair rate, in respect of the grant or continuance of accommodation in the hotel or lodging house, such manager, owner or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him. Penalties

(2) Any manager of a hotel or owner of a lodging house who charges any amount in excess of the fair rate in contravention of section 37 shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine, or with both. 15

(3) Any manager of a hotel or owner of a lodging house who accommodates lodgers or permits lodgers to be accommodated in a room or specified accommodation in excess of the number fixed by the Controller shall, on conviction, be punishable with fine which may extend to one thousand rupees. 20

(4) Any manager of a hotel or owner of a lodging house who fails to display a notice in contravention of the Controller's direction under section 36 shall, on conviction, be punishable with fine which may extend to five hundred rupees. 25

Provisions relating to inquiries by Controller.

41. (1) No order under this Act shall be made by the Controller except after holding an inquiry.

(2) Every such inquiry shall be made summarily in the prescribed manner.

(3) For the purposes of holding an inquiry under subsection (1) the Controller shall have the same powers as are vested in Civil Courts in respect of— 5

(a) proof of facts by affidavits,

(b) summoning and enforcing the attendance of any person and examining him on oath, 10

(c) compelling the production of documents, and

(d) issuing commissions for the examination of witnesses.

(4) The Controller may himself enter or authorize any person subordinate to him to enter upon any premises, hotel or lodging house or any part thereof to which the inquiry relates. 15

Appeal. 42. An appeal shall lie to the Provincial Government from an order passed by the Controller under the provisions of this Part (including an order granting or refusing a certificate under section 39) within fifteen days from the date of communication of the order and the Provincial Government may pass such order as it deems fit. 5

Procedure of Courts in Suits.

43. The provisions contained in sections 28, 29, 30 and 31 shall apply to suits by a manager of a hotel or an owner of a lodging house against a lodger for recovery of charges for, or possession of, the accommodation provided in the hotel or lodging house. 5

995

XLV  
of  
1860.

44. A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Controller  
to be  
deemed  
public  
servant.

XLV  
of  
1860.

45. All proceedings before a Controller shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code.

All pro-  
ceedings  
before a  
Controller t  
be judicial  
proceedings

46. No suit, prosecution or other legal proceeding shall lie against a Controller in respect of anything in good faith done or intended to be done under this Act.

Protection  
of action  
taken unde  
this Act.

## PART IV

### MISCELLANEOUS.

47. (1) Offences under sections 16, 17, 18, 19, sub-section (4) of section 24, section 25 and sub-sections (1) and (2) of section 40 shall be cognizable and shall not be triable by any Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class.

V of  
893.

(2) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a magistrate trying offences under this Act to pass sentences of fine or to award any punishment under this Act in excess of his powers.

48. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), or a firm every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Offence by  
companies,  
etc.

49. (1) The Provincial Government may, by Rules, notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

(i) the form and the manner in which a receipt is to be given under sub-section (1) of section 26;

(ii) the manner in which rent recoverable according to any calendar other than the British calendar before the coming into operation of this Act shall be calculated and charged in terms of the British calendar under sub-section (2) of section 27; 10

(iii) the procedure to be followed in trying or hearing suits, proceedings (including proceedings for execution of decrees and distress warrants); applications, appeals and execution of orders; 15

(iv) the manner in which inquiries shall be made summarily under sub-section (2) of section 41;

(v) levy of court fees in suits, proceedings and applications instituted before a Court or Controller. 20

Repeal. 50. The Bombay Rent Restriction Act, 1939, and the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, are hereby repealed :

Bom.  
XVI  
of  
1939.  
Bom.  
VII of  
1944.

Provided that all suits and proceedings (other than execution proceedings and appeals) between a landlord and a tenant relating to the recovery or fixing of rent or possession of any premises to which the provisions of Part II apply and all suits and proceedings by a manager of a hotel or an owner of a lodging house against a lodger for the recovery of charges for, or possession of, the accommodation provided in a hotel or lodging house situate in an area, to which Part III applies, which are pending in any Court, shall be transferred to and continued before the Courts which would have jurisdiction to try such suits or proceedings under this Act; and thereupon all the provisions of this Act and the rules made thereunder shall apply to all such suits and proceedings : 5 10 15

Provided further that—

(a) every order passed or act done by the Controllers under Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and every order or act deemed to have been passed or done under that Part shall be deemed to have been passed or done under this Act; and 20

Bom.  
VII  
of  
1944.

(b) all proceedings pending before the Controllers under Part IV of that Act shall be transferred to and continued before the Controllers appointed under this Act as if they were proceedings instituted before the Controllers under this Act. 25

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# SCHEDULE I.

[See section 2 (2)]

- |                                                         |                                    |
|---------------------------------------------------------|------------------------------------|
| (i) The City of Bombay.                                 | (23) Sahijpur Bogha Village.       |
| (ii) The Bombay Suburban District.                      | (24) Dariapur-Kajipur Villag       |
| (iii) The Thana District.                               | (25) Hansol Village.               |
| (iv) The Nasik District.                                | (26) Acher Village..               |
| (v) (a) <i>Ahmedabad District</i> —                     | (b) <i>Kaira District</i> —        |
| (1) Ahmedabad Municipal Borough.                        | (1) Anand Municipal District.      |
| (2) Ahmedabad Cantonment.                               | (2) Borsad Municipal District.     |
| (3) Kochrab Village.                                    | (3) Mehmedabad Municipal District. |
| (4) Paldi Village.                                      | (4) Kapadwanj Municipal District.  |
| (5) Madalpur Village.                                   | (5) Unreth Municipal District.     |
| (6) Changispur Village.                                 | (6) Dakore Municipal District.     |
| (7) Shekhpur-Khanpur Village.                           | (7) Kaira Municipal District.      |
| (8) Vasna-Maktampur Village.                            | (8) Nadiad Municipal Borough.      |
| (9) Vadaj Village.                                      | (9) Matar Village.                 |
| (10) Usmanpur Village.                                  | (10) Thasra Village..              |
| (11) Ranip Village.                                     | (c) <i>Broach District</i> —       |
| (12) Survey Nos. 149, 150 and 151 of Memnagar Village.  | (1) Broach Municipal Borough.      |
| (13) Baherampur Village.                                | (2) Ankleshwar Municipal District. |
| (14) Ranip-Hirpur Village.                              | (3) Jambusar Municipal District.   |
| (15) Dani Limda Village.                                | (d) <i>Panch Mahals District</i> — |
| (16) Gomtipur Village.                                  | (1) Dohad Municipal District.      |
| (17) Khokra-Mahmedabad Village.                         | (2) Godhra Municipal Borough.      |
| (18) Amraivali Village.                                 | (3) Jhalod Village.                |
| (19) Rakhial Village.                                   | (4) Halol Village.                 |
| (20) Saraspur Village.                                  | (5) Kalol Village.                 |
| (21) Asarva Village.                                    | (6) Derol Village.                 |
| (22) Revenue Survey Nos. 1077 to 1140 of Naroda Village | (7) Vealnore Village.              |

SCHEDULE I—*contd.*(e) *Surat District—*

- (1) Surat Municipal Borough.
- (2) Bulsar Municipal District.
- (3) Randel Municipal District.
- (4) Jalalpore Village.
- (5) Mandvi Village.
- (6) Pardi Village.

(f) *Ahmednagar District—*

- (1) Ahmednagar Municipal Borough.
- (2) Ahmednagar Cantonment.
- (3) Sangamner Municipal District.
- (4) Kopergaon Municipal District.
- (5) Shrirampur Municipal District.
- (6) Akola Village.
- (7) Rahuri Budruk Village.
- (8) Newasa Budruk Village.
- (9) Shevgaon Village.
- (10) Shrigonda Village.
- (11) Pathardi Village.
- (12) Karjat Village.
- (13) Jamkhed Village.
- (14) Parner Village.
- (15) Belapur Budruk Village.
- (16) Newasa Khurd Village.
- (17) The Revenue Village of Rahuri Khurd.
- (18) The Revenue Village of Belapur Khurd.

(g) *East Khandesh District—*

- (1) Jalgaon Municipal Borough.
- (2) Bhusaval Municipal Borough.
- (3) Amalner Municipal Borough.
- (4) Chalisgaon Municipal Borough.
- (5) Pachora Municipal District.
- (6) Chopda Municipal District.
- (7) Yawal Municipal District.
- (8) Raver Municipal District.
- (9) Savda Municipal District.
- (10) Faizpur Municipal District.

(h) *West Khandesh District—*

- (1) Nandurbar Municipal District.
- (2) Dhulia Municipal Borough.

(i) *Poona District—*

- (1) Lonavla Municipal Borough.
- (2) Poona City Municipal Borough.
- (3) Poona Suburban Municipal Borough.

(j) *Poona District—*

- (4) Poona Cantonment.
- (5) Aundh Road area which is under the jurisdiction of the Bapodi Gram Panchayat near Kirkee.
- (6) The Village of Dapodi, Haveli Taluka.
- (7) Baramati Municipal District.

(j) *Satara District—*

- (1) Satara City Municipal Borough.
- (2) Satara Suburban Municipal District.
- (3) Karad Municipal Borough.
- (4) Wai Municipal District.
- (5) Panchgani Municipal District.
- (6) Mahabaleshwar Municipal District.
- (7) Tasgaon Municipal District.

(k) *Sholapur District—*

- (1) Sholapur Municipal Borough.
- (2) Barsi Municipal Borough.
- (3) Pandharpur Municipal Borough.
- (4) Karmala Municipal District.
- (5) Sangola Municipal District.
- (6) Madha Village.
- (7) Mohol Village.
- (8) Malsiras Village.
- (9) Kurduwadi Village.
- (10) Tembhurni Village.
- (11) Akluj Village.
- (12) Vairag Village.

(l) *Belgaum District—*

- (1) Belgaum Municipal Borough.
- (2) Belgaum Cantonment.
- (3) Nipani Municipal Borough.
- (4) Athni Municipal District.
- (5) Gokak Municipal District.
- (6) Saundatti-Yellama Municipal District.
- (7) Bailhongal Municipal District.

(m) *Bijapur District—*

- (1) Bijapur Municipal Borough.
- (2) Bagalkot Municipal District.

SCHEDULE I—*concl'd.*(n) *Dharwar District—*

- (1) Dharwar Municipal Borough.
- (2) Hubli Municipal Borough.
- (3) Gadag-Betgeri Municipal Borough.
- (4) Haveri Municipal District.
- (5) Ranebennur Municipal District.
- (6) Navalgund Municipal District.
- (7) Nargund Municipal District.
- (8) Byadgi Municipal District.
- (9) Gudguddapur Municipal District.
- (10) Kalaghatgi-Bendigiri Village.
- (11) Karajgi-Chikmagdur Village.
- (12) Hangal Village.
- (13) Ron Village.
- (14) Mundarg Village.
- (15) The Revenue Village of Bankapur.
- (16) The Revenue Village of Kod.
- (17) Gajendragad Village.
- (18) Annigeri Village.
- (19) Hirekerur Village.
- (20) Shiggaon Village.

(o) *Kanara District—*

- (1) Karwar Municipal District.
- (2) Kumta Municipal District.
- (3) Gokarn Municipal District.
- (4) Bhatkal Municipal District.
- (5) Sirsi Municipal District.
- (6) Ankola Panchayat Group.
- (7) Siddapur Panchayat Group.

(p) *Kolaba District—*

- (1) Aibag Municipal District.
- (2) Mahad Municipal District.
- (3) Panvel Municipal District.
- (4) Pen Municipal District.
- (5) Roha-Ashtami Municipal District.
- (6) Uran Municipal District.
- (7) Karjat Village.

(q) *Ratnagiri District—*

- (1) Ratnagiri Municipal Borough.
- (2) Chiplun Municipal District.
- (3) Malwan Municipal District.
- (4) Vengurla Municipal District.

## SCHEDULE II.

[See section 2 (2)].

(i) *The City of Bombay.*(ii) *Ahmednagar District—*

- (1) Ahmednagar Municipal Borough.
- (2) Ahmednagar Cantonment.
- (3) Sangamner Municipal District.
- (4) Kopergaon Municipal District.
- (5) Shrirampur Municipal District.
- (6) Akola Village.
- (7) Rahuri Budruk Village.
- (8) Newasa Village.
- (9) Shevgaon Village.
- (10) Shrigonda Village.
- (11) Pathardi Village.
- (12) Karjat Village.
- (13) Jamkhed Village.
- (14) Parner Village.
- (15) Belapur Budruk Village.
- (16) Newasa Khurd Village.
- (17) The revenue Village of Rahuri Khurd.
- (18) The revenue Village of Belapur Khurd.

(iii) *Eas Khandesh District—*

- (1) Jalgaon Municipal Borough.
- (2) Ehusaval Municipal Borough.
- (3) Amalner Municipal Borough.
- (4) Chalisgaon Municipal Borough.
- (5) Pachora Municipal District.
- (6) Chopda Municipal District.
- (7) Yawal Municipal District.
- (8) Raver Municipal District.
- (9) Savda Municipal District.
- (10) Faizpur Municipal District.

(iv) *Wes' Khandesh District—*

- (1) Dhulia Municipal Borough.
- (2) Nandurbar Municipal District.

(v) *Poona District—*

- (1) Poona City Municipal Borough.
- (2) Poona Suburban Municipal Borough.
- (3) Poona Cantonment.
- (4) Kirkee Cantonment.
- (5) Lonavla Municipal Borough, including the Khandala area.
- (6) Dhond Municipal District.

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## STATEMENT OF OBJECTS AND REASONS.

Control over rents of residential and other accommodation at present exercised in varying degrees in several parts of the Province of Bombay under the Bombay Rent Restriction Act, 1939, and the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944. The former Act, the principal object of which is to prevent an increase in rents of premises with a rental not exceeding Rs. 80 per mensem in areas in which the urban immovable property tax was imposed by Government in 1939, has been continued from year to year and, in the ordinary course, will lapse on the 31st March 1948. The latter Act, which was intended to check an inflationary rise in rents and hotel and lodging house rates in areas in which, owing to war conditions, there was an acute scarcity of accommodation, will lapse in April 1948 unless re-enacted before then. The conditions which led to the enactment of these measures continue in an even more aggravated form and it is, therefore, essential that effective control should be continued until sufficient progress has been made with building operations to provide adequate and suitable accommodation for the largely increased populations of the areas concerned. L. A. Bill No. XVII of 1947 was accordingly introduced in the Bombay Legislative Assembly in February 1947, with the object of consolidating and continuing the provisions of the two Acts so far as control over the rental and letting of residential and other premises were concerned, provision for control over hotel rates and lodging house rates being left to be governed by Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, which it was intended should only continue in force till it lapsed. As it has been found desirable to make several alterations in the provisions of the Bill as introduced in the Bombay Legislative Assembly and as it is also necessary to make provision for continuing control over hotel rates and lodging house rates beyond April 1948, it has been decided to introduce a revised and self-contained Bill covering control over rents of residential and other premises as well as over hotel and lodging house rates.

2. The main features of the Bill are briefly indicated in the following paragraphs :—

(a) Provision is made for continuing control over rents or hotel or lodging house rates, as the case may be, in all areas in which control is exercised at present and power is taken to extend control to new areas or to withdraw control from areas in which it is being exercised as occasion arises. Provision is also made enabling the application of control in new areas in a restricted form to premises used for specified purposes, such as education, or to premises with a standard rent below a specified limit where more extensive control is considered unnecessary. An important feature of the Bill is that it makes the extent of control over rents uniform throughout the areas in which control is at present exercised in varying degrees.

(b) Provision has been made for the appointment of Controllers with judicial experience and for appeals from orders passed by Controllers to the Court of Small Causes, Bombay, in Greater Bombay and the District Court elsewhere, instead of the Collectors.

(c) The recovery of rent according to the British calendar has been made compulsory.

(d) Precise provision has been made for protecting the interests of the tenant in cases of dispute regarding the amount payable as rent.

(e) Precise provisions have been laid down governing the grant of certificates entitling landlords to recover possession of premises or to evict tenants, in place of the rather wide discretion left to the Courts or the Controllers under the existing Acts.

(f) At present under the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, a tenant can sublet the premises without the landlord's consent. Provision has now been made to prevent such sub-letting hereafter, protecting at the same time sub-tenancies entered into previously.

(g) In order to check the exploitation by a tenant of the protection given to him, provision is made for penalising him for demanding any consideration as a condition of giving up a tenancy. A tenant who charges excessive rent to a sub-tenant or takes a premium or other consideration is also made liable to eviction without affecting the right of the sub-tenant, who is in possession of the portion sub-let to him.

(h) An obligation is imposed on the landlord to keep premises in good and tenantable repair.

(i) As the existing penal provisions in regard to the taking of premia by landlords are capable of evasion, they have been suitably widened to cover the taking of premia in disguised forms. Courts are also required to impose a punishment of imprisonment as well as fine equal to the premium or consideration received and are empowered to order in addition confiscation of the premises in respect of which an offence is committed.

(j) In order to ensure that residential premises are not diverted to non-residential use, provision is made for penalising such conversion without the Controller's permission.

(k) At present a Controller has power to fix fair rates for hotels and lodging houses only when he considers the existing rates to be excessive, having regard to the rates prevailing on 1st September 1940 and the increase in the cost of living till he fixes them. He has, however, no power to revise them if there is a subsequent change in the circumstances, such as a rise or fall in prices, etc. Provision is accordingly made to give wider latitude to the Controller in fixing fair rates and to empower him to revise them from time to time.

(l) A penalty of imprisonment and fine has been imposed for receiving premia, fines or other consideration for the grant or continuation of accommodation in a hotel or lodging house.

D. N. DESAI.

Dated 30th September 1947.

**Government of Bombay**

**LEGAL DEPARTMENT**

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**[L. A. BILL No. LIII OF 1947]**

**(As read for the third time and passed by the  
Legislative Assembly on the 3rd November  
1947.)**

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**A Bill to amend and consolidate the law  
relating to the control of rents and repairs  
of certain premises, of rates of hotels and  
lodging houses and of evictions.**

**[Mr. D. N. DESAI, M.L.A.]**

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